



JOURNAL
OF THE
SENATE
SESSION OF 1988

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STATE OF NEW HAMPSHIRE

ORGANIZATIONAL DAY

Wednesday, January 6, 1988

The Senate met at 1:00 p.m.
A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, out of the mouths of babes, you have perfected praise!

So may we in this New Year be able to receive acclaim for ourselves as well as from those we serve!

Bless us Lord, so to perform.

Amen

Senator Preston led the Pledge of Allegiance.

RESOLUTION

Senator Blaisdell offered a resolution in memory of former Senator Charles Eaton.

PRESIDENT'S MESSAGE

SENATOR BARTLETT: I would like to welcome you all back to 1988. I hope you all had a good holiday, a healthy one and enjoyed your families. I would also like to welcome Channel 11 who is going to be televising part of the session today. I would like to thank all of those who worked very hard and diligently this summer on the re-

referred bills and interim study. I would also like to say that I will continue the open door policy that we introduced last year, and you, as Senators, will all be given preferential treatment because I realize your time is very valuable and that you are my constituents.

We have a very busy schedule and we have attempted to take the time and make the time that you spend in Concord as productive as possible. If you look at your calendar, we've tried to schedule the entire month of January. In a short time the House will be passing what we assume will be Joint Rules that is acceptable to their body and that we've agreed upon in our joint session of rules, that will allow you to have a pretty good idea of what our schedule is going to be. We've increased our research staff and we've increased other staff positions for this session. We are going to have a compact session, in time, and we're going to give you all the help that we can. We're going to try to offer to you the knowledge that you need so that you may be able to vote on every bill with the assurance that you are voting with the necessary information that you need. We are going to have a lot of legislation in a short time and this will require all of our close attention and cooperation. There will be a lot of important issues; some people indicate that we've got the leftovers from 1987. I think, if you look at the 600 bills that have been filed, that we don't have leftovers; we have about 120-130 re-referred bills from the House and about 20 from the Senate. As we deal with these issues, we must remember that we're not so sure that our economy is going to be as healthy as it has been in the past. I caution us to look at each piece of legislation, to try to remain within the budget and the money that we have available to expend. Always, our prime concern should be the best interest for the State of New Hampshire.

We have a Senate that we can be proud of and we should again strive for that fine cooperation that we had last time. As it's only through cooperation that we're going to achieve the results that we'd like. If we continue in the same frame, in the same amount of cooperation that we had last year, I believe that when we adjourn, hopefully in April, that we will feel that we've done a job and done it well. Thank you.

INTRODUCTION OF GUESTS

INTRODUCTION OF SENATE STAFF

Amy Huckins

Development, Recreation and Environment Education

Terri Beairsto

Interstate Cooperation

Lois Schmeltzer	Public Institutions, Health and Human Services
Joyce Ahern	Transportation
Susan Faretra	Senate Research Secretary
David Harrington	Press Information Officer
Stan Kelly	Computer Systems Administrator
Louise Axelson	Research Intern
Agnes Lylis	Research Intern
Robert Nealon	Research Intern
Nicole Ouellette	Research Intern
Denis Pilotte	Research Intern

INTRODUCTION OF SENATE BILLS

Senator Dupont offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 240-FN through 353-FN, SR 6, CACR 22, CACR 24 and CACR 29 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

SB 240-FN, relative to unnatural and lascivious acts. (Senator Chandler of Dist. 7 - To Judiciary)

SB 241, relative to the method by which the articles of agreement for cooperative school districts may be amended. (Senator Chandler of Dist. 7 - To Education)

SB 242-FN, to provide funding for the sewage disposal systems of the towns of Exeter and Monroe. (Senator Preston of Dist. 23; Rep. Anderson of Rockingham Dist. 13; Rep. Gage of Rockingham Dist. 13 - To Capital Budget)

SB 243-FN, reinstating the passenger tramway safety board. (Senator McLane of Dist. 15; Senator Hounsell of Dist. 2 - To Executive Departments)

SB 244-FN, making intentional transmission of AIDS a felony. (Senator Chandler of Dist. 7 - To Judiciary)

SB 245, limiting the horsepower of boat motors on Long Pond in the town of Northwood. (Senator Johnson of Dist. 17; Rep. Johnson of Rockingham Dist. 1 - To Development, Recreation and Environment)

SB 246, relative to the sale of liquor in convention centers and first class ballrooms. (Senator Krasker of Dist. 24; Senator Preston of Dist. 23 - To Ways and Means)

SB 247-FN-A, relative to phase II of restoration of the old state house and making an appropriation therefor. (Senator Krasker of Dist. 24; Senator Hounsell of Dist. 2; Senator Heath of Dist. 3; Rep. Chase of Carroll Dist. 6; Rep. Sanderson of Rockingham Dist. 25; Rep. LaMott of Grafton Dist. 5; Rep. Pearson of Belknap Dist. 5 - To Capital Budget)

SB 248-FN, relative to the length of certain prisoners' sentences. (Senator Chandler of Dist. 7 - To Judiciary)

SB 249, relative to hawkers and peddlers. (Senator Nelson of Dist. 13 - To Executive Departments)

SB 250, changing the reporting date for the task force to study support services for families with developmentally disabled children. (Senator Bond of Dist. 1 - To Public Institutions, Health and Human Services)

SB 251, requiring a caboose on certain railroad trains. (Senator Chandler of Dist. 7 - To Transportation)

SB 252-FN, providing for minimum levels of service over the railroads of the state. (Senator Chandler of Dist. 7 - To Transportation)

SB 253, relative to the length of vehicles. (Senator Chandler of Dist. 7 - To Transportation)

SB 254-FN-A, making a supplemental appropriation for school aid. (Senator Disnard of Dist. 8; Senator Hough of Dist. 5 - To Education)

SB 255, relative to school district boundaries. (Senator Hounsell of Dist. 2; Rep. Weymouth of Grafton Dist. 2 - To Education)

SB 256, relative to voting in special school districts. (Senator Hounsell of Dist. 2; Rep. Weymouth of Grafton Dist. 2 - To Executive Departments)

SB 257, extending the reporting date of the biomass study committee. (Senator Bond of Dist. 1 - To Development, Recreation and Environment)

SB 258, relative to boating restrictions on Little Diamond Pond in the town of Stewartstown. (Senator Bond of Dist. 1 - To Development, Recreation and Environment)

SB 259, relative to child custody. (Senator Krasker of Dist. 24; Senator Podles of Dist. 15; Rep. Robinson of Strafford Dist. 4; Rep. Gage of Rockingham Dist. 13 - To Public Institutions, Health and Human Services)

SB 260-FN, relative to detection of airborne radon in homes. (Senator Disnard of Dist. 8; Senator Roberge of Dist. 9; Senator Charbonneau of Dist. 14 - To Public Institutions, Health and Human Services)

SB 261, relative to setting seasons and bag limits on small game birds and animals. (Senator Preston of Dist. 23 - To Development, Recreation and Environment)

SB 262-FN-A, establishing an outdoor youth corps and making an appropriation therefor. (Senator Disnard of Dist. 8; Senator Hough of Dist. 5; Rep. Domini of Sullivan Dist. 5; Rep. Ramsay of Cheshire Dist. 10 - To Public Institutions, Health and Human Services)

SB 263, prohibiting the distribution and sale in the state of beverage containers marked as returnable for refund. (Senator Hounsell of Dist. 2; Rep. Weymouth of Grafton Dist. 2 - To Public Affairs)

SB 264, prohibiting vehicles weighing more than a ton from traveling on old Route 104 in the town of Alexandria. (Senator Hounsell of Dist. 2 - To Transportation)

SB 265-FN, relative to the operation of a bank acquired in a consolidation. (Senator Disnard of Dist. 8; Rep. Krueger of Sullivan Dist. 6 - To Banks)

SB 266, granting immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of nonprofit organizations and governmental entities. (Senator Roberge of Dist. 9 - To Judiciary)

SB 267-FN, relative to child passenger restraints in motor vehicles. (Senator Hough of Dist. 5; Senator Podles of Dist. 16; Senator McLane of Dist. 15; Rep. Chambers of Grafton Dist. 12; Rep. Hager of Merrimack Dist. 21; Rep. Maviglio of Belknap Dist. 1; Rep. Wilson of Strafford Dist. 4 - To Transportation)

SB 268-FN, relative to litigation of small claims. (Senator Podles of Dist. 16 - To Judiciary)

SB 269-FN, relative to indoor air quality in certain state buildings. (Senator Krasker of Dist. 24; Rep. Greene of Rockingham Dist. 18 - To Public Institutions, Health and Human Services)

SB 270-FN, relative to state monitoring of certain solid waste facilities. (Senator Torr of Dist. 21; Senator Dupont of Dist. 6; Senator Roberge of Dist. 9; Rep. Torr of Strafford Dist. 6 - To Development, Recreation and Environment)

SB 271-FN, establishing a study committee to examine the feasibility of relocating state agencies in Concord. (Senator Torr of Dist. 21; Senator Dupont of Dist. 6; Rep. Torr of Strafford Dist. 6 - To Executive Departments)

SB 272-FN, relative to placing a state liquor store on Route 101 west of the city of Nashua. (Senator Pressly of Dist. 12; Rep. Derosier of Hillsborough Dist. 26 - To Ways and Means)

SB 273, relative to capital murder. (Senator Dupont of Dist. 6; Rep. Gage of Rockingham Dist. 13 - To Judiciary)

SB 274-FN, relative to the alteration of firearms. (Senator Nelson of Dist. 13; Senator Charbonneau of Dist. 14; Rep. Jacobson of Hillsborough Dist. 26; Rep. Price of Hillsborough Dist. 28 - To Judiciary)

SB 275-A, relative to Skyhaven airport and making an appropriation therefor. (Senator Dupont of Dist. 6 - To Transportation)

SB 276-FN, establishing a panel to address the effectiveness of the delivery of services to children and their families. (Senator Podles of Dist. 16; Senator Roberge of Dist. 9; Rep. Champagne of Hillsborough Dist. 48 - To Public Institutions, Health and Human Services)

SB 277, prohibiting the hunting of mourning doves in New Hampshire. (Senator Stephen of Dist. 18 - To Development, Recreation and Environment)

SB 278, relative to aid to assisted persons. (Senator Nelson of Dist. 13; Rep. Grodin of Cheshire Dist. 6; Rep. Green of Hillsborough Dist. 36 - To Public Affairs)

SB 279, relative to motor vehicle emissions testing. (Senator Pressly of Dist. 12; Senator Bartlett of Dist. 19; Senator Nelson of Dist. 13; Senator White of Dist. 11; Senator Charbonneau of Dist. 14; Senator Roberge of Dist. 9 - To Transportation)

SB 280-FN-A, changing the rate of the real estate transfer tax. (Senator Hounsell of Dist. 2; Rep. Granger of Hillsborough Dist. 13 - To Ways and Means)

SB 281-FN, prohibiting surrogate parenting. (Senator Hounsell of Dist. 2; Senator Stephen of Dist. 18; Senator Preston of Dist. 23; Rep. Ingram of Sullivan Dist. 4; Rep. Vaughn of Rockingham Dist. 27; Rep. Hager of Merrimack Dist. 21 - To Judiciary)

SB 282-FN, eliminating exemptions from turnpike tolls. (Senator Hounsell of Dist. 2; Senator Chandler of Dist. 7 - To Transportation)

SB 283, relative to protective services for adults. (Senator Krasker of Dist. 24; Senator Nelson of Dist. 13; Rep. Arnesen of Grafton Dist. 7 - To Public Institutions, Health and Human Services)

SB 284-FN-A, relative to exemption from tolls on the New Hampshire turnpike system. (Senator Bartlett of Dist. 19 - To Transportation)

SB 285-FN-A, establishing one-way tolls on the New Hampshire turnpike system and making an appropriation therefor. (Senator Bartlett of Dist. 19 - To Transportation)

SB 286, relative to exchanging police information, on a reciprocal basis, with other states. (Senator Pressly of Dist. 12; Rep. Price of Hillsborough Dist. 28; Rep. Derosier of Hillsborough Dist. 26; Rep. Pignatelli of Hillsborough Dist. 31 - To Interstate Cooperation)

SB 287, relative to police assistance from other states. (Senator Pressly of Dist. 12; Rep. Derosier of Hillsborough Dist. 26; Rep. Price of Hillsborough Dist. 28; Rep. Pignatelli of Hillsborough Dist. 31 - To Interstate Cooperation)

SB 288-FN, relative to placing articles on the official ballot. (Senator Pressly of Dist. 12 - To Executive Departments)

SB 289-FN, relative to foundation aid levels. (Senator Nelson of Dist. 13; Senator Preston of Dist. 23; Senator White of Dist. 11; Senator Disnard of Dist. 8; Senator Pressly of Dist. 12; Rep. Pignatelli of Hillsborough Dist. 31; Rep. Jacobson of Hillsborough Dist. 26; Rep. Baldizar of Hillsborough Dist. 22; Rep. Mulligan of Hillsborough Dist. 23 - To Education)

SB 290, relative to expenditures of funds from the highway surplus account. (Senator Bartlett of Dist. 19 - To Capital Budget)

SB 291, relative to refunds of insurance premiums. (Senator Freese of Dist. 4; Rep. Fraser of Merrimack Dist. 6 - To Insurance)

SB 292-FN, establishing a study committee to examine the future air travel needs of New Hampshire. (Senator Pressly of Dist. 12; Rep. McCann of Hillsborough Dist. 31; Rep. Baldizar of Hillsborough Dist. 22; Rep. Pignatelli of Hillsborough Dist. 31; Rep. Derosier of Hillsborough Dist. 26 - To Transportation)

SB 293-FN, relative to asbestos management. (Senator Nelson of Dist. 13; Senator White of Dist. 11; Rep. Jacobson of Hillsborough Dist. 26; Rep. Green of Hillsborough Dist. 36 - To Public Institutions, Health and Human Services)

SB 294-FN, relative to the catastrophic aid formula. (Senator Disnard of Dist. 8; Senator Krasker of Dist. 24; Senator St. Jean of Dist. 20; Senator Hough of Dist. 5; Senator Blaisdell of Dist. 10 - To Education)

SB 295, relative to a guardian's authority to remove life support of his ward. (Senator Nelson of Dist. 13; Rep. Price of Hillsborough Dist. 28 - To Judiciary)

SB 296-A, relative to the construction of regional vocational education centers and making an appropriation therefor. (Senator Dupont of Dist. 6; Senator Torr of Dist. 21; Rep. Keans of Strafford Dist. 11 - To Capital Budget)

SB 297-FN-A, establishing adult in-home care services for certain persons and making an appropriation therefor. (Senator Blaisdell of Dist. 10; Senator Nelson of Dist. 13; Rep. Hager of Merrimack Dist. 21; Rep. Bourque of Hillsborough Dist. 35 - To Public Institutions, Health and Human Services)

SB 298-A, relative to student housing at the New Hampshire technical institute and making an appropriation therefor. (Senator Freese of Dist. 4; Senator Blasidell of Dist. 10; Senator Hough of Dist. 5; Senator Torr of Dist. 21; Rep. LaMott of Grafton Dist. 5; Rep. Ramsay of Cheshire Dist. 10 - To Capital Budget)

SB 299-FN, relative to deeds. (Senator Freese of Dist. 4 - To Public Affairs)

SB 300, relative to local regulation of excavations and certain highway construction vehicles. (Senator Bartlett of Dist. 19 - To Internal Affairs)

SB 301-FN-A, relative to the deadline for an environmental impact study for a 4-lane east-west highway from Concord to the Spaulding turnpike. (Senator Torr of Dist. 21; Rep. Torr of Strafford Dist. 6 - To Capital Budget)

SB 302-FN, relative to fireworks. (Senator White of Dist. 11; Senator Preston of Dist. 23; Rep. Eaton of Cheshire Dist. 4 - To Executive Departments)

SB 303-FN, relative to a judicial service increment. (Senator Torr of Dist. 21; Senator Blaisdell of Dist. 10; Senator Hough of Dist. 5; Rep. Palumbo of Rockingham Dist. 10; Rep. Reardon of Hillsborough Dist. 37; Rep. Sytek of Rockingham Dist. 20 - To Finance)

SB 304-FN, relative to the disposition of fines and forfeitures collected for violations of municipal ordinances, codes, and regulations. (Senator Preston of Dist. 23; Senator Bartlett of Dist. 19; Rep. Gage of Rockingham Dist. 13 - To Executive Departments)

SB 305-FN, relative to pari-mutuel pools at dog races. (Senator Blaisdell of Dist. 10 - To Ways and Means)

SB 306-FN, relative to low-dose mammography screening. (Senator Krasker of Dist. 24; Senator Delahunty of Dist. 22; Senator Podles of Dist. 16; Rep. Sanderson of Rockingham Dist. 25; Rep. Copenhaver of Grafton Dist. 12; Rep. Packard of Hillsborough Dist. 15 - To Public Institutions, Health and Human Services)

SB 307-FN, relative to retirement pay for judges and to vested rights in judicial retirement compensation. (Senator Bartlett of Dist. 19; Senator Preston of Dist. 23; Senator Blaisdell of Dist. 10; Rep. Sytek of Rockingham Dist. 20; Rep. Chambers of Grafton Dist. 12 - To Finance)

SB 308-FN, relative to motor vehicle registration fees to be used for highway and bridge construction in areas identified by the emissions control testing program and requiring inspection decals for motor vehicle registration in such areas. (Senator Pressly of Dist. 12; Rep. Price of Hillsborough Dist. 28; Rep. Pignatelli of Hillsborough Dist. 31 - To Capital Budget)

SB 309-FN, enabling cities and towns to transfer revenues from the land use change tax to the local conservation commission. (Senator Pressly of Dist. 12; Senator Torr of Dist. 21; Rep. Hager of Merrimack Dist. 21; Rep. Derosier of Hillsborough Dist. 26; Rep. Price of

Hillsborough Dist. 28; Rep. Pignatelli of Hillsborough Dist. 31; Rep. West of Merrimack Dist. 21 - To Public Affairs)

SB 310-FN-A, relative to the purchase and distribution of breathalyzer machines by the department of safety and making an appropriation therefor. (Senator Johnson of Dist. 17; Rep. Domini of Sullivan Dist. 5; Rep. Harrington of Hillsborough Dist. 7; Rep. Eaton of Cheshire Dist. 4; Rep. Fraser of Merrimack Dist. 6; Rep. MacDonald of Carroll Dist. 6 - To Finance)

SB 311-FN, relative to licensing oil burner technicians and installers. (Senator Disnard of Dist. 8 - To Executive Departments)

SB 312-FN, prohibiting the stocking of bodies of water which are inaccessible to the public. (Senator Disnard of Dist. 8; Rep. Boucher of Rockingham Dist. 23 - To Development, Recreation and Environment)

SB 313-FN, providing a cost of living increase for New Hampshire retirement system members. (Senator Blaisdell of Dist. 10; Senator McLane of Dist. 15; Senator Hough of Dist. 5; Senator Torr of Dist. 21 - To Insurance)

SB 314-FN-A, relative to pari-mutuel purse funds. (Senator St. Jean of Dist. 20; Senator Stephen of Dist. 18 - To Ways and Means)

SB 315-FN, relative to appeals from the personnel appeals board. (Senator St. Jean of Dist. 20 - To Executive Departments)

SB 316-FN, allowing certain group II retirement system members to continue to receive group medical insurance coverage for themselves and another designated person upon their retirement. (Senator St. Jean of Dist. 20 - To Insurance)

SB 317-FN, relative to master plans and their housing sections. (Senator St. Jean of Dist. 20 - To Public Affairs)

SB 318-FN, establishing a committee to study the feasibility of establishing a New Hampshire zoological park. (Senator Charbonneau of Dist. 14; Senator White of Dist. 11; Rep. Conroy of Rockingham Dist. 7; Rep. Katsakiores of Rockingham Dist. 7; Rep. Skinner of Rockingham Dist. 21; Rep. Smith of Hillsborough Dist. 21 - To Development, Recreation and Environment)

SB 319, relative to cancellation of insurance policies. (Senator Nelson of Dist. 13; Senator Charbonneau of Dist. 14; Rep. Green of Hillsborough Dist. 36; Rep. Pappas of Hillsborough Dist. 37 - To Insurance)

SB 320-FN, relative to health insurance for retired municipal employees. (Senator Nelson of Dist. 13; Senator Pressly of Dist. 12; Rep. Baldizar of Hillsborough Dist. 22; Rep. McCann of Hillsborough Dist. 31 - To Insurance)

SB 321-FN, relative to certificate of taxes and other assessments on real estate. (Senator Freese of Dist. 4 - To Executive Departments)

SB 322-FN-A, relative to petroleum pollution cleanup. (Senator Hounsell of Dist. 2; Senator Blaisdell of Dist. 10; Rep. Vaughn of Rockingham Dist. 27; Rep. Schwartz of Cheshire Dist. 13 - To Development, Recreation and Environment)

SB 323-FN, to extend eligibility for aid to the permanently and totally disabled to children under the age of 18. (Senator Podles of Dist. 15; Senator Dupont of Dist. 6; Senator Nelson of Dist. 13 - To Public Institutions, Health and Human Services)

SB 324-FN, relative to dangerous dogs and amending the penalty provision relating to dogs which are a menace, a nuisance, or vicious. (Senator Podles of Dist. 16; Rep. Nagel of Rockingham Dist. 20; Rep. Jones of Hillsborough Dist. 20 - To Judiciary)

SB 325-FN, relative to providing support to families coping with a severely disabled child or young adult family member, using funds already appropriated. (Senator Nelson of Dist. 14; Senator Charbonneau of Dist. 14; Rep. Price of Hillsborough Dist. 28; Rep. Gage of Rockingham Dist. 20; Rep. Tupper of Merrimack Dist. 6; Rep. Carpenito of Rockingham Dist. 20 - To Public Institutions, Health and Human Services)

SB 326-FN, establishing a New Hampshire rivers management and protection program and making an appropriation therefor. (Senator Hounsell of Dist. 2; Senator Torr of Dist. 21; Senator Pressly of Dist. 12; Senator Blaisdell of Dist. 10; Rep. Maviglio of Belknap Dist. 1; Rep. Conroy of Rockingham Dist. 7; Rep. Miller of Cheshire Dist. 1; Rep. Reardon of Hillsborough Dist. 37; Rep. Boucher of Rockingham Dist. 23 - To Development, Recreation and Environment)

SB 327-FN, eliminating the social security offset provision for group I members of the retirement system. (Senator Blaisdell of Dist. 10;

Senator Hough of Dist. 5; Senator McLane of Dist. 15; Senator Torr of Dist. 21; Rep. Campbell of Belknap Dist. 5; Rep. Hawkins of Belknap Dist. 5 - To Insurance)

SB 328-FN, relative to sexual misconduct by psychotherapists. (Senator Bond of Dist. 1 - To Public Affairs)

SB 329-FN, establishing a study committee to study Monte Carlo nights, Las Vegas nights, bingo games, and lucky 7. (Senator Podles of Dist. 16 - To Ways and Means)

SB 330-FN, providing medical and health insurance coverage for retired non-state group II New Hampshire retirement system members. (Senator St. Jean of Dist. 20 - To Insurance)

SB 331-FN, relative to payment for forensic medical examinations of sexual assault victims. (Senator Krasker of Dist. 24; Senator Nelson of Dist. 13; Rep. Reardon of Hillsborough Dist. 37; Rep. Green of Hillsborough Dist. 36; Rep. Price of Hillsborough Dist. 28; Rep. Sanderson of Rockingham Dist. 25 - To Public Institutions, Health and Human Services)

SB 332, requiring local approval of applications to the liquor commission by its licensees and permittees to allow certain dancing and entertainment within their establishments. (Senator Preston of Dist. 23 - To Ways and Means)

SB 333, relative to justices of the peace. (Senator Hounsell of Dist. 2 - To Judiciary)

SB 334-FN-A, establishing a comprehensive literacy and dropout prevention program, and making an appropriation therefor. (Senator Disnard of Dist. 8; Senator Delahunty of Dist. 22; Senator Charbonneau of Dist. 14 - To Education)

SB 335-FN, relative to central business service districts. (Senator Nelson of Dist. 13; Senator Charbonneau of Dist. 14; Senator Pressly of Dist. 12 - To Executive Departments)

SB 336-FN, relative to retirement benefits for full-time legislative employees. (Senator Nelson of Dist. 13; Senator Blaisdell of Dist. 10; Senator Preston of Dist. 23; Senator Delahunty of Dist. 22 - To Insurance)

SB 337-FN, adopting the uniform federal lien registration act. (Senator Freese of Dist. 4 - To Public Affairs)

SB 338-FN-A, relative to a statewide plan for public and private transportation and making an appropriation therefor. (Senator Nelson of Dist. 13; Senator Preston of Dist. 23; Senator Charbonneau of Dist. 14; Senator Bond of Dist. 1; Rep. Carpenito of Rockingham Dist. 20; Rep. Green of Hillsborough Dist. 36; Rep. Sanderson of Rockingham Dist. 25; Rep. Frank of Hillsborough Dist. 13; Rep. Derosier of Hillsborough Dist. 26 - To Transportation)

SB 339-FN, establishing a committee to study the network of airports operating in New Hampshire. (Senator Dupont of Dist. 6 - To Transportation)

SB 340, prohibiting corporal punishment of children in any child caring or child placing agency licensed by the state. (Senator Podles of Dist. 16; Senator Roberge of Dist. 9; Rep. Champagne of Hillsborough Dist. 48 - To Judiciary)

SB 341-FN-A, establishing a position to coordinate child day care services in the office of the commissioner of health and human services and making an appropriation therefor. (Senator Krasker of Dist. 24; Senator Torr of Dist. 21; Senator Pressly of Dist. 12; Rep. Wallner of Merrimack Dist. 18; Rep. Sanderson of Rockingham Dist. 25; Rep. Green of Hillsborough Dist. 36 - To Public Institutions, Health and Human Services)

SB 342, amending the certificate of need law. (Senator Bond of Dist. 1; Senator White of Dist. 11 - To Public Institutions, Health and Human Services)

SB 343-FN, relative to liability for expenses of children under the supervision of the division for children and youth services. (Senator Bond of Dist. 1; Rep. Burns of Coos Dist. 5 - To Education)

SB 344-FN, relative to the consignment of artworks. (Senator Krasker of Dist. 24; Senator Delahunty of Dist. 22; Senator Hounsell of Dist. 2; Senator Pressly of Dist. 12; Senator Dupont of Dist. 6; Rep. Ramsay of Cheshire Dist. 10; Rep. Densmore of Grafton Dist. 3; Rep. Jacobson of Merrimack Dist. 2; Rep. Hounsell of Carroll Dist. 2; Rep. Sanderson of Rockingham Dist. 24 - To Public Affairs)

SB 345-FN, relative to disciplinary proceedings conducted by the committee on judicial conduct. (Senator Bartlett of Dist. 19 - To Judiciary)

SB 346-FN, creating a presumption that cardiovascular disease in police officers is occupationally related. (Senator Nelson of Dist. 13;

Senator Charbonneau of Dist. 14; Senator Delahunty of Dist. 22; Rep. Brungot of Coos Dist. 8; Rep. Gage of Rockingham Dist. 20; Rep. Nagel of Rockingham Dist. 20 - To Insurance)

SB 347-FN-A, increasing rates for shared homes and making an appropriation therefor. (Senator Freese of Dist. 4; Senator Blaisdell of Dist. 10; Senator Chandler of Dist. 7; Rep. Butler of Rockingham Dist. 11; Rep. Dexter of Belknap Dist. 8; Rep. Hawkins of Belknap Dist. 5 - To Public Institutions, Health and Human Services)

SB 348-FN, relative to licensing of health care facilities. (Senator McLane of Dist. 15 - To Public Institutions, Health and Human Services)

SB 349-FN-A, to provide 2 additional field staff and additional equipment to the division of air resources for statewide air quality monitoring and making an appropriation therefor. (Senator Disnard of Dist. 8; Senator Delahunty of Dist. 22; Rep. Green of Rockingham Dist. 18; Rep. Millard of Merrimack Dist. 4; Rep. Shriver of Hillsborough Dist. 11 - To Executive Departments)

SB 350-FN, relative to the election of fish and game commission members. (Senator Heath of Dist. 3; Senator Hounsell of Dist. 2; Rep. Boucher of Rockingham Dist. 23 - To Development, Recreation and Environment)

SB 351, relative to interstate banking and mutual savings banks. (Senator Blaisdell of Dist. 10; Senator Hough of Dist. 5; Rep. Christy of Grafton Dist. 11; Rep. Fraser of Merrimack Dist. 6 - To Banks)

SB 352-FN, reestablishing the board of chiropractic examiners. (Senator Johnson of Dist. 17 - To Executive Departments) SR 6, relative to aid to the Soviet Union and other communist countries. (Senator Chandler of Dist. 7; Senator St. Jean of Dist. 20; Senator Hounsell of Dist. 2; Senator White of Dist. 11 - To Internal Affairs)

SB 353-FN, relative to motor vehicle plates for organizational vehicles. (Senator Bond of Dist. 1; Senator Nelson of Dist. 13; Rep. Arnesen of Grafton Dist. 7 - To Transportation)

SR 6, relative to aid to the Soviet Union and other communist countries. (Senator Chandler of Dist. 7; Senator St. Jean of Dist. 20; Senator Hounsell of Dist. 2; Senator White of Dist. 11 - To Internal Affairs)

CACR 22, relating to: meetings of the general court. Providing that: the general court shall meet in triennial sessions and each represent-

ative and senator shall be elected to 3-year terms of office. (Senator Chandler of Dist. 7 - To Internal Affairs)

CACR 24, relating to: the right to counsel. Providing that: the right to counsel shall not attach unless a determination has been made that imposition of a term of incarceration is probable. (Senator White of Dist. 11 - To Judiciary)

CACR 29, relating to: Meetings of the General Court. Providing that: The General Court shall meet biennially. (Senator Preston of Dist. 23 - To Internal Affairs)

SENATE RESOLUTION

Senator Dupont moved to adopt Senate Resolution #1.

RESOLVED, that any action taken by the Senate to introduce, refer to committee and schedule hearings for Senate bills numbered 240 through 353 and Senate Resolution 6 and CACR 22, 24 and 29 are hereby legalized, ratified, approved and confirmed.

Adopted

ADOPTION OF SENATE RULES

Senator Hough moved the adoption of the Senate Rules as amended.

SENATOR HOUGH: I believe you have in front of you a document that refers to the Senate rules as adopted in the 1987 session and the amendment to our rules for the second year of the 1988 session. All that this does is delete that section in last year's rules for the first year of the session that is nonapplicable in the second year; the first Friday, January 23rd, and it goes down through various dates. It has no bearing for the second year and I move the adoption.

Resolved, that the Senate Rules adopted in the 1987 Session be the rules of the 1988 session as amended.

AMENDMENT TO SENATE RULES

Amend the 1987 Senate Rules by deleting rule 17-A (a), (b), (c) and (d).

17-A (a) No request by a member of the Senate for drafting a bill or a joint resolution, other than the general appropriations (budget) bill or the capital budget bill, shall be accepted by Legislative Services

for processing unless the subject matter of the legislation has been filed with Legislative Services no later than Friday, January 23, at 5:00 p.m.

(b) The Office of Legislative Services shall not draft a Senate bill or joint resolution, other than the general appropriations (budget) bill or the capital budget bill unless the complete information necessary for drafting such a bill or joint resolution is submitted to Legislative Services not later than 5:00 p.m. on Friday, January 30.

(c) Every Senate bill and Joint resolution other than the general appropriations (budget) bill or the capital budget bill, must be signed off in Legislative Services by 5:00 p.m., on Tuesday, February 17.

(d) Notwithstanding the provisions of 17 (a), (b), and (c), a Senate bill, Senate joint resolution, or Senate concurrent resolution may be accepted by Legislative Services for drafting and introduced into the Senate at any time prior to the deadline established by Joint Rules for the transfer of bills out of the first body if approved by either a majority of the Senate Rules Committee or a two-thirds vote on the floor.

Adopted

COMMITTEE REPORTS

HB 532, allowing real estate brokers to establish interest-bearing trust accounts. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: Due to a problem, at this point in time, I'd like to make a motion to table this bill.

Adopted.

HB 354-FN-A, relative to the Franklin-Laconia connector and making an appropriation therefor. Ought to Pass with Amendment. Senator Chandler for the Committee.

SENATOR CHANDLER: I think everyone is familiar with the Franklin-Laconia connector. If they're not familiar with it they should be by now, because it's been before this body and the legislature quite a few times. A hearing was held during the interim and the vote was to report the bill ought to pass with amendment. The committee amendment was to change the amount in the bill to one dollar. The way it stands now the bill is approved, but only one dollar is appropriated for the bill. If this is accepted, I have a floor amendment to offer on the bill, which has been passed out.

SENATOR HOUNSELL: I rise in opposition to this amendment offered by the committee. Even though it reduces it to a dollar, I see that is nothing more than a ploy to keep the thing alive. We've held hearings on this matter time and time again; it's now finally time for us to lay it to rest. This bill is not a good bill for the State of New Hampshire, it certainly is not a good bill for the people who live in the town of Tilton, which would be bypassed by this connector, and so, I rise in opposition to the amendment.

SENATOR WHITE: I also rise in opposition to the pending committee report. It was a split decision on the committee. Senator Hounsell and I and perhaps others were opposed to the bill. We have heard the bill on several occasions, as Senator Hounsell has said, and I think we've heard it and heard it and there isn't any resolution. To put in a dollar is a mockery. Basically, by putting in a dollar, we keep the people in Franklin and Laconia convinced that we are eventually going to put a bypass in. I don't think that in these days, when you're looking at something in excess of two hundred million dollars, that that road will ever be built. They are trying to improve Route 3 and some other connectors, so that I don't think this is a viable piece of legislation. It continually gives hope to the people from Franklin and Laconia.

The unfortunate thing is, when we heard it back in the early part of 1987, we asked the communities of Franklin and Laconia if they were going to sit down and discuss it with the selectmen from the two towns that were going to be impacted, namely Tilton and Belmont. They never did invite Tilton and Belmont into the discussions as why this bypass was so severely needed. The sad thing is, that it's Tilton and Belmont that would be giving up their land value, not Franklin and Laconia. It would be the towns in between that are going to be impacted. The other thing is when Franklin went ahead and put their industrial development in, they didn't put it on the east side of town, they put it on the west side of town, further complicating the problems of congestion which they were going to bypass with this connector. So, I rise in opposition to the pending motion.

SENATOR HOUNSELL: Senator White, are you aware that the travel time from the industrial park, in Franklin on Route 3-A, is shorter now than it would be if someone wanted to get to that industrial park, would be if they went to Tilton and took the bypass?

SENATOR WHITE: It's worse than I thought.

SENATOR HEATH: Senator Chandler, is your eventual aim in the passage of this to have a bypass put in?

SENATOR CHANDLER: Yes, because it was already approved once.

SENATOR HEATH: Senator Chandler, would this bypass take business away from the liquor store that you asked us to authorize last session?

SENATOR CHANDLER: I refuse to answer that question.

SENATOR FREESE: I just want to say that it is of paramount importance that HB 354-FN-A, as in the calendar recommended with amendment, receive approval of this body today. Please support the Capital Budget Committee report of ought to pass with amendment.

Since 1962, three million, seven thousand sixty-two, seven hundred and thirty-seven point seventy-three (\$3,762,737.73) has been spent of taxpayers money on the Franklin-Laconia connector. This is 1988, 26 years later, and it is time to move along with this project. Presently, there are no suitable access roads to this region of the State. This connector road from I-93 is the only long-term solution. One of the reasons New Hampshire is such a popular tourist attraction is Lake Winnepesaukee. It's the largest inland lake in New England. There's Lake Winnisquam and there are other smaller lakes in the region, small bodies of water for recreation including fishing and boating. We need not forget the contribution this area provides to the State's economy in the way of income. During the fall, winter, summer seasons, the population really explodes. We must provide the road network to accommodate this growing economy for the benefit of that region as well as for the benefit of the State of New Hampshire. I can not imagine what will happen if steps are not taken soon to include the increasingly dangerous traffic and safety problems as they presently exist on Route 3, Route 11 and Route 106. Let's rekindle the faith of the people and the businesses in the Franklin, Laconia, Gilford area in the State government today by the Senate taking a lead and passing this important legislation before you. If we are going to depend on this region in the future as a major tourist attraction and a viable income producer for the State of New Hampshire, then it is absolutely necessary to connect this Lakes Region in these three Lakes Region communities to the interstate highway system, I-93. Thank you.

SENATOR NELSON: Senator Chandler, do you think there will be any impact on this with the federal cutbacks that have recently come to light out of congress that could delay this even longer?

SENATOR CHANDLER: We were informed this morning by delaying this project we have already lost a \$20 million appropriation and it was spent somewhere else. If we keep putting it off we might loose more.

SENATOR NELSON: Senator Chandler, do you think it will even be delayed further given the federal cutbacks in transportation from the federal government?

SENATOR CHANDLER: It could be, but that isn't the reason it was delayed because of the lack of money. It was delayed because the towns of Belmont and Northfield bought a suit and that stopped the work on the road. This project was approved once, Senator Nelson, and it was started but all work stopped when the towns bought it into court. After the court decision was decided the logical thing would be to do was to continue what was already approved.

SENATOR JOHNSON: Senator Freese, was this project included in the Governors ten year highway plan?

SENATOR FREESE: It was not.

SENATOR JOHNSON: Senator Freese, would you be willing to support an increase in the gasoline tax to help pay for this kind of a project and other highway projects that are building up in the state?

SENATOR FREESE: Senator Johnson, let me answer your question this way, I think it is very important for New Hampshire to keep its road structures up-to-date. If that is what it takes to do it, the answer is yes. I would hope that it could be done through regular funding. If it can't be done through regular funding, yes, I would support a gasoline tax.

SENATOR HOUNSELL: Senator Chandler, you said that there was \$20 million dollars lost in federal money. Are you saying that the State of New Hampshire lost it or that money was lost to that project?

SENATOR CHANDLER: That \$20 million was for interchange #21 on route 93, but there was a time limit on it and the time limit has gone by so we don't have that \$20 million available now.

SENATOR HOUNSELL: Was that \$20 million allocated to some other New Hampshire project?

SENATOR CHANDLER: No, it was only for interchanges on the interstate system.

SENATOR HOUGH: I rise in support of the committee amendment and I also rise in support of what I hope will be the opportunity to vote for Senator Chandler's further amendment, which in fact, correctly addresses this situation.

I sit here and I listen to Senator Freese and Senator Chandler and I feel that no one knows better than they whether this project has merit and should go forward in their district. I'm not the least bit concerned about Senator Chandler's liquor store because knowing once this liquor store comes on line it is not that big an endeavor to move it to another location in the same vicinity. If that is necessary, Jack, we will be able to do that once we get this project completed.

I think what we are faced with here in this body today and we will be faced with for the rest of this session, is the shell game of the ten-year plan as opposed to the will of the elected Senators from the various districts in New Hampshire. There are problems in the Nashua area yes, as there are in Keene; there are problems in Tilton-Franklin; I'm sure there are problems in the Seacoast and with a great good fortune of the growth that we have been seeing in the Central Connecticut Valley and seeing the deterioration of the infrastructure in our bridges with our neighboring state of Vermont, I hope that we will have a project in the not too distance future that addresses transportation in my area, and that probably would never be in the ten-year plan. But, the facts are that there are 24 people in this body whose collective wisdom may just be as valid as some organization that puts together a plan without the input of the local elected representatives.

As far as the gas tax is concerned, this morning I understand that Governor Kunin is proposing one. I dare say that most of the States in the northeast will be raising and adjusting their gas tax from now until the close of their legislative sessions this year.

The facts are that we are undergoing tremendous growth expansion and movement in this area and it is up to us in New Hampshire, by the means that we have available, to put our highway and our bridge system in order, and to expand it reasonably within the areas that we best represent. I think to do otherwise than to support this

amendment and the subsequent amendment of Senator Chandler is not to pay heed to the collective wisdom of these two fine Senators that correctly represent the interests of their district.

SENATOR TORR: I have to sympathize with Senator Chandler and Senator Freese because the need is certainly there for some improvements in that area. But, I certainly cannot go along with the approval of this amendment. I oppose it strongly on one point and that is the fact that four communities over a period of probably 25 years have failed to sit down and resolve their differences on the problem. I think when that happens I will support whatever resolution they have, but until that does happen I cannot support it. I think that's totally wrong when you have four communities that are unable to resolve a problem of this nature. I think one other damaging factor is that there was a study done, indicating that the bypass would be detrimental to the area rather than helpful. It would be a drain on the population rather than an improvement and that was a recent study just completed this last April.

SENATOR JOHNSON: Senator Chandler, I would like to ask you the same question I asked Senator Freese. Would you given the demand of this project and the demands of other projects that presumably as needy or more needy, would you be willing to support an increase in the gasoline tax to help fund these kinds of projects?

SENATOR CHANDLER: No.

SENATOR NELSON: Senator Hough, I would ask you if, in fact this 4 million dollar amendment passes, where do you suggest the 4 million dollars come from?

SENATOR HOUGH: I am looking at a \$4 million authorization in Senator Chandler's amendment.

SENATOR NELSON: From where should we take this money?

SENATOR HOUGH: It is going to come from revenue, from the highway fund.

SENATOR NELSON: Senator Hough, do you think that the federal cutbacks will affect the state funding the allocation, and therefore could it possibly impact this \$4 million?

SENATOR HOUGH: There's no question about it, that there is going to be less federal support and the difference is going to have to be made by the gas tax and I can support that.

SENATOR NELSON: Is there a gas tax bill in the Senate?

SENATOR HOUGH: There is a bill that is originating, it is my understanding, in the House that will generate an increase in the gas tax.

SENATOR NELSON: Would you believe, if that bill passes, thirty communities in the State will not receive any money and it's only directed towards urban projects, secondary projects?

SENATOR FREESE: Senator Torr, as chairman of the committees that this bill has been heard in this past year, do you recall testimony that indicated that there might be more benefits in this road going through Belmont and Tilton then the people that live there realize and that there was testimony that in other areas where this type of a road had been bypassing the town and those roads had been put through even in spite of the opposition of those communities and it has now worked out to the betterment of those communities. Do you recall any of that testimony before your committee.

SENATOR TORR: I recall that testimony and that testimony was from opponents from outside of the two communities. The two communities, the selectmen of both communities and the general population of the two communities, were totally opposed to the bypass. I guess one of the strong points, as I indicated earlier, was the fact that the failure for the four communities to sit down and try to make a resolution suitable to all four parties has never occurred.

SENATOR FREESE: Would you believe that I believe that such a meeting would have been fruitless because of the firm convictions of both sides with regards to this issue?

SENATOR TORR: I would have to believe that in fact you state that that you do believe that, but I really, strongly believe myself, in fact there needs to be that methodology to take place and a meeting of the minds in this aspect, that it will resolve the problem. I believe that can happen by someone taking some extreme strong leadership and directing it, almost, to have that meeting take place and I believe that the resolution will occur.

Amendment to HB 354-FN-A

Amend the bill by replacing all after the enacting clause with the following:

1 Authority for Design, Engineering, and Land Acquisition. Notwithstanding any other provision of the law to the contrary, the de-

partment of transportation and the governor and executive council are hereby authorized and directed to proceed without delay with the design, engineering, and acquisition of all the land and property rights necessary for the construction of the entire 4-lane Franklin-Laconia connector highway, as defined in the final environmental impact statement approved in 1981 for this project. Not later than July 1, 1992, the department shall purchase or initiate eminent domain proceedings for all remaining property needed for the right-of-way.

2 Appropriation. The sum of \$1 is hereby appropriated to the department of transportation for the biennium ending June 30, 1989, for the projects stated in section 1 of this act. This shall be a nonlapsing appropriation and shall be in addition to any other appropriation made for the department for the biennium. The department is further authorized to accept federal funds that may be available for these projects. This appropriation shall be reduced by the amount of federal funds made available.

3 Bonds. To provide funds for the appropriation in section 2 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$1 and for said purposes may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. 4 Payments. The payment of principal and interest of the bonds and notes issued for the project in section 1 of this act shall be made when due from the highway fund.

5 Effective Date. This act shall take effect 60 days after its passage.

Roll Call requested by Senator Hough.

Seconded by Senator White

The following Senators voted yes: Freese, Hough, Dupont, Chandler, Disnard, Blaisdell, Pressly, Nelson, McLane, Johnson, Stephen, St. Jean, Preston and Krasker.

The following voted no: Bond, Hounsell, Heath, Roberge, White, Charbonneau, Podles, Torr and Delahunty.

14 Yeas

9 Nays

Amendment adopted.

Senator Chandler offered a floor amendment.

SENATOR CHANDLER: First, I would like to thank everybody that voted yes on the last motion, and secondly, I hope that you will also vote for this small appropriation to keep the job going.

There has already been a lot of money spent and that money is going to be wasted if we don't continue with the project. I propose this amendment to appropriate 4 million dollars, not to complete the job, but to acquire more of the right of way and it will be for a four lane highway. It will keep the thing going and eventually will be able to complete it, instead of spending it all at once would be quite a large sum, but if we gradually acquire the right of way and then start in the construction. That is why I offer this amendment, move its adoption to get some activity going on it again.

SENATOR BLAISDELL: Senator Chandler, in the amendment, I understand the \$4 million, but it also says in the amendment that this shall be a non-lapsing appropriation and shall be an addition to any other appropriation made for the department for the biennium. Is there any other money still out there that will be added to that \$4 million?

SENATOR CHANDLER: Just recently, the Governor's committee that consists of the 5 councilors and the commissioner of transportation, they just took some action on the ten-year plan and they knocked out quite a few million dollars out of it, because they were afraid they weren't going to get federal money. I think that this 4 million dollars here could be borrowed by bonds. In the third paragraph it says bonds provided for the appropriation with 3 million dollars. It doesn't have to have existing money, it can be borrowed money.

SENATOR BLAISDELL: What I am asking Senator Chandler, I understand the \$4 million, is there any other money that is sitting in this program right now, any money that is available to the Department of Transportation for this project right now?

SENATOR CHANDLER: To my knowledge, I don't believe there is.

SENATOR BLAISDELL: If there was money in this plan still, this would supersede anything that the council would be, even if they took it out, wouldn't this leave that money in there? If there was money there, so it'd be more than 4 million, wouldn't it?

SENATOR CHANDLER: I don't believe that there is any existing money that is sitting around idle, that I know of. If there were any I think that the Department of Transportation and Commissioner Stickney and the Governor's Council are following the wishes of the Chief Executive of the State who doesn't like this job, he doesn't want that job and that is why the opposition has stopped it.

SENATOR HOUNSELL: He is not the only one that doesn't like this project. I don't like this project. Most people in Tilton don't like this project. Senator Hough talked about representing a constituency and this bill is called the Franklin-Laconia connector, well it should also be called the Tilton disconnecter. You are going to put a road through a town that is going to be disconnected from access in travel by a large part of the State. You got 4 million dollars, in here for a project. I would rather see 4 million dollars go to upgrade some of the projects in the northern part of the State that need the upgrading. \$4 million for a project that the towns that are affected by the project, as Senator Torr has pointed out, can't come into agreement.

The one dollar was one thing. I guess I understand doing a little bit of political favoritism as well as anyone. But I think when you start talking 4 million dollars Senator Chandler, you start talking about serious expenditures. You start talking about moving into a policy of big spending, when a need has not been demonstrated. I think, Senator Chandler, you should have been happy with the one dollar.

SENATOR CHANDLER: Senator Hounsell, if Tilton was not in your district, would you still be against this job?

SENATOR HOUNSELL: Yes.

SENATOR PRESTON: Senator Chandler, if Franklin were not in your district, would you be strongly in favor of all these federal funds that you are looking for?

SENATOR CHANDLER: Yes, I've been for this bill since 1978 and I've worked for.

SENATOR HEATH: Senator Chandler, do you agree with me that probably the place that our form of government most closely approaches a totalitarian kind of government is in its ability to take somebody's property against their will through eminent domain?

SENATOR CHANDLER: I can only answer that question by saying every time a road is built, anywhere in this state, it takes private land.

SENATOR HEATH: I understand that, but do you agree with me that that is probably one of the hardest things in a democracy to swallow is that power of eminent domain where somebody's land and possessions are removed against their will?

SENATOR CHANDLER: I agree with you that it probably is tough on the people that own the land.

SENATOR HEATH: If you agree with me on that, do you think it is right in a piece of development that is as controversial as this, that may not and probably will never be completed and built, that we should spend this amount of money before we've really decided whether we are going to complete this project and start removing people from their property against their will, before we know if there is a legislative commitment to finish that project?

SENATOR CHANDLER: I think that the job will be completed someday and I think it needs to be completed and I think it will help the people in Belmont and Tilton. It will benefit them, but they don't know it.

SENATOR HEATH: Wouldn't it be better to wait until there is a legislative commitment to finish this project, if that comes, before we start spending money and removing people's property from them?

SENATOR CHANDLER: No.

SENATOR WHITE: Basically, I don't think it has been mentioned this morning, but the scope of this entire project is 150 million dollars and we are talking 12.8 miles. My concern is, any encouragement that the Senate gives it, just continues the hope of the people from Franklin and Laconia that, yes indeed, we believe that this is a viable project. If in your own heart you believe that this is a viable project, then you should vote for the amendment. However, when you analyze it and you look at the amount of money that has been set aside in the ten-year project, this takes up almost the entire amount of money that has been set aside for primary roads under the ten-year highway program, 150 million dollars.

As you may recall, in the last Capital Budget program by the federal government, they changed it so that the New Hampshire portion has been cut back so we don't even have the amount of money that we anticipated for the ten-year highway budget.

At some point, we have to decide what we are going to do and how we are going to do it. Perhaps the ten year highway plan was done wrong because I think that the Senate and the House should have been involved it. But, it is there and it is a guideline. If we want to change it, then we should change the entire scope, not nit-pick it

piecemeal, and do away with all the projects that are there just to put one Franklin-Laconia bypass in.

SENATOR HOUNSELL: I have been observing a couple of things as we move into the session and that is there is going to be a number of issues that we are going to talk about.

One of them is going to be this ten-year highway plan and I would just like to have everyone understand that that plan was adopted two years ago and we really should be calling it the eight-year plan, the clock should be running by now. So, that is going to be something that is going to be talked about throughout this session and also another issue comes up and that is affordable housing.

So, I would just like to point out that if this path of this connector goes through the town of Tilton, it's going to go right through the middle of a mobile home park. I suspect the owners of that park will be reimbursed for the property that they will loose to the state. However, what might we suggest to the people who live within that mobile home park, that they could sleep on the sidewalks and the empty parking spaces in this town of Tilton! You have got to understand, the total picture is irresponsible for us to put 4 million dollars or even a dollar towards this project.

SENATOR CHANDLER: Senator White, didn't last session we appropriate money to acquire the right of way to complete the Keene bypass?

SENATOR WHITE: Yes we did.

SENATOR CHANDLER: Wasn't it predicated on the fact that we would acquire the necessary right of way and then construct the rest of the road at a future time?

SENATOR WHITE: I think the entire committee believed in that particular bypass, so we felt that that money was going to be well worth spending. I don't think that that committee agreed completely in the bypass of the Franklin-Laconia, so that we felt that to let Keene know that we do support their bypass and therefor take that property. We did not anticipate that that bypass would come in in this particular eight-year highway plan but, it would come in at the end.

SENATOR CHANDLER: How can you justify letting all the money that has been spent on this project already go down the drain?

SENATOR WHITE: I don't think two wrongs make a right. I think we were wrong to put the money in the last time and I think we would just be compounding it by putting more money to eventually all go down the sewer and we won't have any roads built.

SENATOR TORR: If you all look at your amendment, in the second sentence in the first paragraph. I would like to read it to you, "this shall be a non-lapsing appropriation, it shall be an addition to any other appropriation made for the department for the biennium." This is certainly a grey area, in our opinion, legal opinion it is uncertain as to what this will do. It could in fact, possibly appropriate in this project, mind you, could total \$150 million. It could, by this language as written, mean just that, that in fact, you have made a commitment for 150 million dollars.

I would like to indicate again, we are sympathetic to the cause but, until there is a resolution brought forward, then I don't think you should take and play with this and I think you really are playing with a dangerous area and it's a grey area as far as the legal thing is concerned. I would urge the defeat of this amendment.

Amendment failed.

Senator Hounsell moved to substitute indefinite postponement.

Roll Call requested by Senator Hounsell
Seconded by Senator Charbonneau

The following Senators voted yes: Bond, Hounsell, Heath, Roberge, White, Pressly, Charbonneau, McLane, Podles, Johnson, Torr and Delahunty.

The following voted no: Freese, Hough, Dupont, Chandler, Disnard, Blaisdell, Nelson, Stephen, St. Jean, Preston and Krasker.

12 Yeas

11 Nays

Motion adopted

HB 240-FN, relative to septic inspections on waterfront properties and relative to creating 3 new positions within the division of water supply and pollution control and making an appropriation therefor. Ought to Pass with Amendment. Senator Freese for the Committee.

SENATOR FREESE: HB 240-FN has received a great deal of work since it was re-referred to the Senate committee on Development, Recreation & Environment. The sponsors and some of the committee members have met with the New Hampshire Association of In-

stallers and Designers several times during the summer. Originally, the New Hampshire Association of Installers and Designers, who will do the inspection and work on the systems, were in favor of the concept but opposed to the bill as then structured. The intent has been made in the amendment to take care of the inherent problems with the administration of the legislation. It also corrects the inequities of certain sections that made proper interpretation of the bill extremely difficult.

The main parts of the bill are as you see them on page 9, and I would like to emphasize the fact that an assessment indicating that if the site fails to meet any of the criteria established under this bill or under this section, shall not prohibit the sale of any property but, it must be disclosed to the buyer as a full and proper notice of possible limitations of the site for a sewage disposal system. We need this legislation around our lakes in New Hampshire, particularly Lake Winnepesaukee and the larger lakes. We are polluting those lakes today and when the property exchanges hands we need some way for these septic systems to be checked. We hope that you will support the bill as amended by the committee. We think it is a good bill; it is an environmental bill; it is really much needed and it will have no bearing, that I can see, on property buying and selling as real estate changes hands in New Hampshire.

SENATOR PRESTON: I live on a great pond, but I don't think it is included in this bill under the statute that is addressed here. I disagree respectfully with Senator Freese on this piece of legislation. This is one of those bills that I don't care if the vote is 22-1 because the principle is very, very clear. I happen to think that if enforced there is sufficient local and state laws and regulations that pertain very clearly to this.

The question was asked, as it is spelled out in the amendment here, it says, "prior to occupying an existing structure in a full time basis' you will increase the load of sewage or intensify the use." What does that mean? If a couple was living in there and had a new baby, that increases the intensity in use, it increases septic system uses, would this trigger some action against these folks? This, frankly, I think, violates the property rights in anyway. That is still very unclear and I've heard it said that if the house sells and people use this year round it will increase the use, that is a falsehood. A lot of these waterfront properties now could be rental properties that have crowds in them week to week and the use could be more intense then it is today.

I think the basic principle, I see here is, what is expansion? Does it mean that you can't add another room without expanding your septic system, you can't accommodate new members of the family? Do you need a new design? Is that what the bill is actually saying, because it says very clearly that if you do have such intensification of use or have an additional member to your family, that you must seek approval from the state. What if they disapprove if you failed to get approval from the state of your existing system. You are still living there, then what do they mandate, that heretofor you had two people and now you have got two children, you are four people. Do they mandate you put a new septic system in? That is unfair for those who have been living there for years would have an advantage perhaps over younger families or new buyers. I don't think it is proper. It does say, "it does not prohibit a sale, if you have got a failed system," but it doesn't say you can move in there with ten people. Are you going to allow them to move in with ten people even though the system has failed? This section of the amendment was put in to accommodate people like myself that had objected. It is just very clear to me, it is not a land taking but, I think it is an infringement, I think it is very ambiguous and is very unclear. I understand that the bill is okay in the form it is in, it is not okay, it is dangerous; it places liabilities on the present owners; it allows people to move in even though there is a failed system and you know it, there is a lot of liabilities out there for the present owner, for the real estate agent that must put it in his listing sheet and for the buyers. I think it opens up a whole new bucket of worms and as I said, I am voting no. Make your own judgement.

SENATOR HEATH: With all due respect to Senator Preston, you can put all of your concerns that you've expressed here to rest. In that first paragraph it says, "prior to expanding any structure or occupying any existing structure on a full time basis which would increase the load," so if you have already occupied it an increase in the size of the family doesn't matter, it is only when you go from part time to full time or when you are expanding the structure, that you have this done. If either one of those conditions doesn't exist, then expansion doesn't kick in this legislation.

Secondly, you are talking about the liability of the house owner, it's lessened. Your liability as a real estate dealer is lessened. Everybody's liability, including the bank that lends money, is lessened because this is basically a truth in labelling. It gives people an idea of what the situation is there, that they are dealing with. The banks know when they lend money, the real estate dealers are going to

know it and they are not going to be caught in the liability of having to repeat something that the owner that wants to sell has told them that might not be true and get into a suit because they were wrong and they took the word of the owner, who was anxious to get rid of the property. So, everybody is protected with the possible exception of an owner who wants to sell a property and wants to misrepresent it and that person shouldn't be protected. Most importantly, the lake is beginning to get a little protection from this. We have, in our area, 40 gallon drums that have been in cottages that were two weeks occupancy in the 40's, when they were built, where the 40 gallon drum drains right into the lake and now they are full time with three bedrooms and a foundation and those are the places that we have got to slowly work out of the system. This does it simply by informing people that this is what you are buying, this is liability if there is one. Once they are in there and they increase the use, that's fine; if they put a washing machine in, that's fine; if their family doubles in size, that's fine. The only time it kicks in is as it says, "prior to an expansion of the structure or going from part time to full time occupancy," so I would hope that that would answer those two problems because they don't exist. In fact they have protection in the opposite direction.

SENATOR PRESTON: If your parents own a cottage, Senator Heath, and you have been residing there for summers and you want to reside there full time year-round this kicks in?

SENATOR HEATH: Yes.

SENATOR PRESTON: It also says it shall not prohibit the sale of property, so the new buyer could move in and occupy with no problem?

SENATOR HEATH: Yes, he would have the advantage of knowing what he was moving into.

SENATOR PRESTON: But they can move in, can reside there just the same as you can now?

SENATOR HEATH: Except you have one advantage, you know what you are moving into.

SENATOR PRESTON: But you can't live there year-round, you would be prohibited from living there year-round if your parents had only been using it summers?

SENATOR HEATH: If my parents were using it summers and they gave it to me to use year-round and I start using it year-round, prior to that this kicks in. It gives me information, it doesn't prohibit me from doing it anymore than in the absence of this law unprohibited.

SENATOR PRESTON: It says if you do that, you must seek approval, what if the state disapproves?

SENATOR HEATH: I guess you would have to bring it up to snuff. Wouldn't that be the wise thing if you had any care for the body of water that you are going to move into.

SENATOR PRESTON: Bring up to snuff for how many dollars Senator, do you know?

SENATOR HEATH: How many dollars are the lakes worth.

Amendment to HB 240-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to sewage disposal systems on waterfront properties
and expanded use of sewage disposal systems.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraphs; Definitions. Amend RSA 149-E:2 by inserting after paragraph XIII the following new paragraphs:

XIV. "Sewage disposal system" means any private sewage disposal or treatment system, other than a municipally owned and operated system.

XV. "Developed waterfront property" means any parcel of land which is contiguous to or within 200 feet of a great pond as defined in RSA 4:40-a and upon which stands a structure suitable for either seasonal or year-round human occupancy.

2 New Sections; Sewage Disposal System Approval. Amend RSA 149-E by inserting after section 3-b the following new sections:

149-E:3-c Approval to Increase Load on a Sewage Disposal System.

1. Prior to expanding any structure or occupying any existing structure on a full-time basis, which would increase the load on a sewage disposal system, the owner of such structure shall submit an application for approval of the sewage disposal system to the division. Application for approval shall include one of the following:

(a) Evidence that the existing sewage disposal system meets the requirements of the division for the intended usage or the town's minimum standards for use or occupancy prescribed under RSA 48-A:11, whichever is more stringent.

(b) The design for a new system which meets the requirements of the division for the intended use of the town's minimum standards for use or occupancy, whichever is more stringent.

II. The fee for application under this section shall not exceed fees charged for new design applications.

III. The division shall adopt rules under RSA 541-A requiring a person to comply with the provisions of paragraph I before taking any action which would increase the load on a sewage disposal system.

149-E:3-d Waterfront Property Sale; Site Assessment Study.

I. Prior to offering for sale any developed waterfront property using a sewage disposal system, the owner of the property shall, at his expense, engage a licensed sewage disposal system designer to perform a site assessment study to determine if the site meets the current standards for sewage disposal systems established by the division. The site assessment study may be completed off-site.

II. The site assessment study form shall be come a part of the listing agreement before the developed waterfront property may be offered for sale.

III. The site assessment study form, with stated findings, shall be given to the buyer and receipt of the form shall be acknowledged in writing by the buyer.

IV. Failure of the seller or the seller's agent to notify the buyer of the findings or deliver approved plans of the sewage disposal system pursuant to paragraph III of this section shall be a violation and, notwithstanding RSA 651:2, shall be punishable by a fine not to exceed \$500.

V. The site assessment study shall consist of 3 sections:

(a) Section A shall include the name, address, and telephone number of the seller and the seller's agent and the location and a brief description of the property, including the tax map reference and lot number.

(b) Section B shall include the lot size, slope, loading (based on the number of bedrooms in the structure), water source, soil type, and estimated seasonal high water table information from U.S. Soil Conservation Service maps. A space shall be included on the form for the licensed designer to write his assessment of the site for the current use of the system, based upon the criteria and information required in this subparagraph.

(c) Section C shall include information about the present sewage disposal system, if available. If the installed system was approved by the division, a copy of the approval form, approval number and plan shall be attached to the site assessment study. An assessment indicating that the site fails to meet any of the criteria established under this section shall not prohibit the sale of the property but must be disclosed to the buyer as full and proper notice of the possible limitations of the site for a sewage disposal system.

VI. The division shall design the site assessment form pursuant to paragraph V of this section. The division shall adopt rules pursuant to RSA 541-A relative to the procedures for the availability and distribution of the form to interested parties.

3 Appropriation. The sum of \$1 is appropriated to the division of water supply and pollution control for the fiscal year ending June 30, 1989, for the purposes of this act. Such funds shall be in addition to any other appropriations to the division of water supply and pollution control. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

4 Effective Date. This act shall take effect January 1, 1989.
Amendment adopted.

Senator Preston wished to be recorded as opposed.

Ordered to Third Reading.

HB 571, relative to the certification and financial management of life care facilities. Ought to Pass with Amendment. Senator Delahunt for the Committee.

SENATOR DELAHUNTY: The purpose of HB 571 is to establish standards and regulations for those organizations that accept payments from individuals and/or corporations who promise in return to care for that person, who is usually amongst the elderly group, for the remainder of their life.

Life or continuing care communities are organizations which, by contract, guarantee residents various degrees of housing, food, and health care services. These contracts require an up front entrance usually ranging from 20 to 150 thousand dollars, plus a monthly maintenance fee. The intended purpose of these life care communities is to reduce the risk of a person facing unmanageable bills, such as those of long term nursing care, by polling cost. This could be considered a type of insurance except that instead of a cash return, specified services are promised to be provided over the life of the

individual. Presently there are some 700 such communities in the United States. Three of these are either presently operating or planned for the State of New Hampshire. The reason for legislation is to protect these individuals who probably commit the major portion, if not all, of their life savings to these communities. If, for an example, an individual were to invest those life savings in an annuity or to deposit them in a bank he would be guaranteed a return by law. Presently, except for the integrity of the operator in any existing laws pertaining to fraud, no such protection of any kind exists for a person investing a savings in a life care community in New Hampshire. Thus, it is likely that if an operator is a poor manager, a poor business person or if he operates in a fraudulent manner, an individual savings will be wiped out. While lacking that, the care actually provided will be something less than the care promised. Nationally approximately 10% of these institutions have failed. We want to prevent this from occurring in New Hampshire if possible. The counselors take government reports as of mid 1987, 20 states have passed legislation of regulating life care communities

SENATOR DISNARD: If I give you my \$171,000 how will I be protected?

SENATOR DELAHUNTY: The commissioner and the advisory committee will go through and you will get an audit. The facilities are audited annually. The amount of money is put in escrow prior to you going into the home and then everything is pro-rated by day.

SENATOR DISNARD: Will the owner take out insurance on this bill to protect me?

SENATOR DELAHUNTY: No, but your money will be in escrow and will be protected by the commissioner from insurance.

Amendment to HB 571-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the certification and financial management
of life care facilities and making
an appropriation therefor.

Amend the bill by replacing all after the enacting clause with the following:

1 Purpose.

I. The general court recognizes that continuing care communities are an important and necessary alternative to serve the long term residential, social, and health care needs of many older citizens. The general court further finds:

(a) That an increasing number of older citizens are asked to invest their life savings in facilities that offer to care for them for the remainder of their lives;

(b) That such proposals, although offering care instead of a cash return, are a type of insurance analogous to what the insurance industry often calls a "single premium policy" or a "single payment annuity";

(c) That individual investments by such persons in these facilities are often large, usually from \$50,000 to \$250,000, and thus may constitute their entire life savings;

(d) That an owner of such facility often invests from \$15,000,000 to \$25,000,000, depending on the number of residents;

(e) That failure or inability of a facility to operate can easily eradicate an entire life savings and render such persons financially unable to provide for themselves in their old age and forcing them to become dependent on public welfare;

(f) That faulty operation of such facilities is contrary to the best interests of both the elderly and the state of New Hampshire and therefore regulation of this industry is both desirable and necessary.

II. The general court, in an effort to protect New Hampshire's older citizens, hereby establishes regulation of such continuing care facilities.

2 New Chapter; Continuing Care Communities. Amend RSA by inserting after chapter 420-C the following new chapter:

CHAPTER 420-D CONTINUING CARE COMMUNITIES

420-D:1 Definitions. In this chapter:

I. "Advisory council" means the continuing care advisory council established under RSA 420-D:19.

II. "Commissioner" means the insurance commissioner.

III. "Continuing care" or "life care" means furnishing to a person, other than one who is related by consanguinity or affinity up to, but not including, the third degree, services that shall include board and lodging and may include nursing services, medical services, or other health related services, irrespective of whether the lodging and services are provided at the same location or provided by a third party, pursuant to a contractual agreement extending for the life of

such person or for a period of a year or more in consideration of payment of an entrance fee which may also include additional periodic charges for the services provided and including contracts which are terminable by either party.

IV. "Department" means the insurance department.

V. "Entrance fee", "entrance deposit" or "accommodation fee" means an initial or deferred payment, agreed upon in the contract, of a sum, usually a lump sum, in cash or in kind, to a provider in return for acceptance as a resident in a facility. This definition shall not apply to the payment of a sum which is less than the total of periodic payments, as defined in paragraph X of this section, for one year or \$10,000.

VI. "Facility" means any facility or institution offering continuing care to an individual.

VII. "Licensed" means that the provider has obtained a certificate of authority from the commissioner.

VIII. "Living unit" means a room, apartment, or other area within a facility used exclusively by one or more, but usually no more than 2, residents. This definition shall not mean shelter care, a personal care unit, nursing home, or infirmary bed.

IX. "Manager" means a person who operates a facility.

X. "Periodic payments" or "monthly care fees" means those payments in addition to the entrance fee and made by a resident to a provider for continuing care during the entire period of residence in a facility.

XI. "Provider" means a person contracting to provide continuing care at a facility. This may be a natural person, partnership, or any other type of business organization, whether organized for profit or not.

XII. "Resident" means a person entitled, pursuant to a contract with the provider, to receive continuing care in a facility.

XIII. "Solicit" means all actions by a person or provider seeking to have individuals enter into a continuing care agreement. This includes, but is not limited to, mail, telephone, personal contacts, and media advertisements.

420-D:2 Certificate of Authority; Temporary Certificates.

I. No person or provider may solicit funds, accept payments of any kind, or otherwise engage in providing any form of continuing care without a certificate of authority issued under this chapter. An application for a certificate shall include the proposed disclosure statement required under RSA 420-D:4 and a statement indicating that all of the requirements under this chapter have been met. The commissioner shall take prompt action on requests for a certificate and shall, within a reasonable time, issue a certificate or a written rejection.

tion. If he rejects an application, he may do so outright or state the conditions which must be met before a certificate shall be issued. The applicant may request reconsideration and shall be granted a hearing in accordance with rules adopted by the commissioner. Certificates issued under this section shall continue in effect until revoked by the commissioner or until sale or transfer of management control to another owner or provider.

II. Continuing care facilities operating or soliciting contracts or otherwise being organized on January 1, 1989, shall apply for a temporary certificate of authority within 6 months after publication of rules required under this chapter, except as provided in RSA 420-D:2, III. The commissioner may issue a temporary certificate for a period not to exceed a year; however, if requested, he may extend such period to 2 years if there are in his opinion extenuating circumstances. A facility shall be in compliance with this chapter with regard to any new residents. Notwithstanding this paragraph, the commissioner shall issue a temporary certificate unless he determines from the application that there is no reasonable expectation that the provider has the ability to comply with the provisions of this chapter. The provider of an existing facility, upon receipt of a permanent certificate of authority issued under this chapter, shall offer to amend the contractual and non-contractual agreements with the residents of such facilities to conform with the provisions of this chapter. If the commissioner denies a provider operating on January 1, 1989, a permanent certificate of authority, any resident shall be entitled to all remedies provided under this chapter.

III. Continuing care facilities which reported to or were under the supervision of the director of charitable trusts of the department of justice under RSA 7:19 through 32-a on January 1, 1989, shall, within 90 days of the publication of the rules required under this chapter, apply for and receive a temporary certificate of authority which shall be for one year. Until the rules for such facilities have been adopted, the temporary certificate shall be continued from year to year, except that, if no amendments to this chapter are enacted by the general court, then all provisions of this chapter shall apply and be binding on these facilities on and after January 1, 1991. Pending issuance of a permanent certificate of authority, the commissioner shall have the authority to file a lien in accordance with RSA 420-D:9 if he finds it necessary in order to protect the best interests of the residents of such a facility.

420-D:3 Renewal of Certificate of Authority. Certificates of authority shall continue in effect until revoked by the commissioner. Certificates shall not be transferred during this time to another provider

or owner. The commissioner shall establish a fee for applications for certificates of authority by rules adopted under RSA 541-A.

420-D:4 Disclosure Statement.

I. Each provider shall provide each prospective resident with a disclosure statement which has been approved by the commissioner. The disclosure statement shall be delivered before the initial transfer of funds or before any contract is consented to by each prospective resident of the facility. The disclosure statement shall include in conspicuous large type, the statement: "NOTICE: You are advised to consult with an attorney before signing any documents or agreements concerning this matter. You have the right to cancel this agreement within 10 days after signing without obligation, except for certain described services and charges." The language of the disclosure statement shall be in plain and understandable English.

II. The disclosure statement shall include the following information:

(a) The name of the organization and whether it is for profit, and whether it is a partnership, corporation, or other type of organization.

(b) For all officers, trustees, investors, and owners with more than 5 percent ownership and for the facility manager:

(1) Name, address and amount of ownership.

(2) Responsibility and relationship to the facility.

(3) Previous experience with similar facilities.

(4) Previous business experience.

(5) Any felony convictions against such person in any jurisdiction.

(6) Any court orders or injunctive relief against such person.

(7) Relationships with other nursing homes or like communities.

(8) Previous bankruptcies or financial actions against such person.

(9) Relationship with any supplier or potential supplier of services.

(10) Supplies or materials of any kind contributed or sold to the provider.

(c) The provider's relationship with any religious, charitable, or nonprofit organization and the extent of such organization's financial responsibilities to the provider or to residents.

(d) Whether the provider claims to be nonprofit or tax exempt.

(e) The location and description of the facility and, if it is proposed or incomplete, the estimated completion date, status of construction, and any contingencies on that completion date.

(f) Those services to be provided by the facility under basic contract and those at extra cost.

(g) All locations where services are to be provided, if different from the main facility.

(h) All entrance fees and periodic payments that are required of residents and a description of all policies and conditions for refund or return of these fees and payments.

(i) When and how periodic payments may be changed by the facility.

(j) Provisions of the provider for reserve funding, escrows, and trusts and investment of these funds.

(k) Financial statements audited by a certified public accountant including, if the facility is in operation, a balance sheet and an income statement for the 2 complete and immediately preceding years.

(l) If the facility has not yet begun operating:

(1) All expected costs or obligations.

(2) Full description of all mortgages or long term financing and an analysis of the occupancy rates necessary to pay them together with an analysis showing the number of contracts necessary to make start up feasible.

(3) Estimated entrance fee income prior to operation.

(4) Estimated start-up losses and reserves to be covered by entrance fees.

(5) Projection of estimated annual income from periodic payments.

(6) Resident mortality and morbidity assumptions.

(7) Analysis of facilities expected to compete with the proposed facility and a demographic analysis of the elderly population expected to support the facility.

(8) All periodic payments a resident will be expected to pay.

(9) Assumptions and bases for estimating occupancy rates.

(10) All expected subsidies, private or government, including medicaid and medicare, and the effect if these subsidies are not received.

(11) Projected annual operating expenses.

(12) Estimated capital and equipment replacement expenditures for the current year and the next 5 years. In specific cases, the commissioner may, if he deems necessary, require a longer period of projection of the estimated capital and operating expenses.

(13) All assets pledged as collateral.

(14) Annual payments on long term financing.

(15) Any other commitments over \$25,000 to make payments to another party for any purpose.

III. The disclosure statement shall contain any other information deemed necessary by the commissioner.

IV. The cover page of the disclosure statement shall state, in a prominent location and type face, the date of the disclosure statement and that the issuance of a certificate of authority does not constitute approval, recommendation, or endorsement of the facility by

the department, nor is it evidence of, nor does it attest to, the accuracy or completeness of the information set out in the disclosure statement.

420-D:5 Revocation or Suspension of Certificate of Authority; Liens.

I. The commissioner may revoke, deny, or suspend a certificate upon notice and hearing with written findings of fact if he finds that any of the following conditions exist:

(a) Violation by a provider of any provisions of this chapter or any rule adopted pursuant to it.

(b) Failure to continue to meet the requirements of the certificate of authority.

(c) Lack of any qualifications necessary under this chapter for the certificate of authority. (d) Failure to file a disclosure statement under RSA 420-D:4 or failure to disclose such to a prospective resident.

(e) Fraud or misrepresentation of a material fact in the disclosure statement.

(f) Failure to comply with a cease and desist order under RSA 420-D:24.

(g) Misappropriation, conversion, or wrongful withholding of money.

(h) A demonstrated lack of fitness or trustworthiness.

(i) Failure to make a new application for certificate of authority when there is a sale, transfer of ownership, or partial ownership, or transfer of control.

(j) Such unsound financial condition or any other practice which may be hazardous or injurious to the residents of the facility or to the general public.

(k) Failure to maintain a complete list of all entrance fees paid by each resident or prospective resident by the provider or his escrow agent.

(l) Failure to file an annual report in accordance with RSA 420-D:7.

II. If necessary to protect the interests of the residents, the commissioner shall file a lien in accordance with RSA 420-D:9 on the real and personal property of the provider and shall take any other action necessary to protect the residents of the facility.

420-D:6 Appeal. Any person, corporation, partnership, or association aggrieved by the action of the commissioner in revoking, suspending, or refusing to grant or reissue a certificate has the right to a rehearing and appeal in accordance with the provisions of RSA 541.

420-D:7 Annual Reports.

I. Annually, on or before March 15, a provider certified under this chapter shall submit a report to the commissioner relative to the financial condition of the facility together with any other information required by the commissioner. The commissioner may require more frequent reports of any provider or facility if he deems it necessary for proper review. If the provider uses an annual period other than a calendar year, he may apply to the commissioner for permission to file on another date which must be within 75 days of the close of this annual period. The commissioner shall approve such a request if the annual period used is prescribed by an appropriate federal agency and shall approve requests that are for the convenience of the provider if it is practicable to do so. A provider shall not change the final date of his annual period without prior written approval of the commissioner.

II. The report required under this section shall be in such form as the commissioner shall prescribe and shall include but not be limited to the following information:

(a) The most recent disclosure statement of the facility as required under RSA 420-D:4.

(b) An annual financial statement with an explanation of the differences between previous financial estimates and actual figures for the year.

(c) An estimated financial statement for the new fiscal year with an estimate in case of all major changes expected during the year. The commissioner shall adopt rules under RSA 541-A relative to the definition of major changes. Reports containing the information under this subparagraph shall not be distributed to residents of a facility unless prior approval has been obtained from the commissioner.

(d) Financial statements audited by an independent certified public accountant, which shall contain for 2 or more annual periods, at a minimum, the following information:

(1) A balance sheet.

(2) A statement of income and expenses.

(3) A statement of equity or fund balances.

(4) A statement of changes in financial position.

(5) The accountant's opinion.

(6) All notes to the financial statements considered customary or necessary to full disclosure and adequate understanding of the financial statements, the financial condition of the facility, and the operation.

(7) Such other reasonable data, financial statements, and pertinent information as the commissioner may by rule prescribe.

III. The annual statement shall be sworn to in writing by the principal officer or officers of the provider as follows:

- (a) If an individual owner, by him;
- (b) If a limited partnership, by the general partner;
- (c) If a partnership, by all the partners;
- (d) If an unincorporated association, by all its members or by all its officers and directors;
- (e) If a trust, by all its trustees and officers; or
- (f) If a corporation, by the president and the secretary.

420-D:8 Liquid Reserves. Liquid reserves of each facility subject to this chapter shall be maintained equal to 12 months' principal and interest payments plus that portion of 2 months' operating expenses which relates to life care residents. Other reserves or trust accounts under the exclusive control of the provider shall be considered in making this determination. The commissioner may adopt rules pursuant to RSA 541-A relative to the definition of liquid reserves. The commissioner may require liquid reserves to be placed in escrow and shall prescribe escrow conditions and shall approve the escrow agent. If the provider contracts with any resident to return any portion of the entrance fee to such resident or his estate, the commissioner may make a finding if necessary to protect the best interests of the resident that a reserve be established by the provider in accordance with rules adopted by the commissioner.

420-D:9 Lien on Behalf of Residents. The commissioner shall file a lien on all real and personal property of a provider if he deems it necessary to protect the interests of the residents of a facility. Such lien shall be effective for the period determined necessary by the commissioner and may be renewed if the circumstances warrant it. A lien shall only be foreclosed to protect the investment of residents, and the proceeds shall be distributed in a manner to satisfy any continuing care contracts in effect at that time.

420-D:10 Entrance Fee Escrow Account.

I. An escrow account for entrance fees shall be established and approved by the commissioner before a certificate of authority under this chapter shall be issued. Entrance fees paid by prospective residents before occupancy of a facility living unit and which total over \$1,000 shall be placed in this account. All entrance fees subject to this section shall be placed in the account on the first working day after receipt. Interest on such fees shall be paid at the current market rate as established by the commissioner to the prospective resident if the resident is not allowed by the provider, for any reason, to enter the facility.

II. The provider shall deliver to the escrow agent the sum total of all entrance fees paid in for each resident or prospective resident. A list of the names, addresses, and sum totals of all entrance fees paid by each resident or prospective resident shall be maintained by the

provider or the escrow agent for the provider. If an entrance fee has been paid by another on behalf of a resident, a statement shall be included as to whom the amount in escrow is to be returned to, should return become necessary.

III. Release of escrowed amounts shall be made as follows:

(a) For living units that have been previously occupied, when the resident makes the first monthly payment.

(b) For living units not previously occupied:

(1) When aggregate fees received or receivable equal 50 percent of total entrance fees due at full occupancy, except that any entrance fee payments that are less than 35 percent of the amount due from a resident will not be counted; or

(2) When entrance fees plus proceeds of any first mortgage or other long term loan in lieu of a first mortgage plus other funds on hand equal $1/2$ of the total cost of the facility, plus $1/2$ of the start-up losses shown in the certificate of authority application; or

(3) When a permanent mortgage or other long term loan commitment has been received and the mortgagee's commitment conditions prior to disbursement have been satisfied, other than completing construction and closing purchase.

IV. The escrow agent shall return funds, including all interest, to the person who originally made the payment to the provider, if the funds so deposited are not released to the provider under the conditions enumerated in paragraph I or II within 3 years of the escrow date. The commissioner may extend this period for up to 2 years upon written application by the provider.

V. The escrow provisions under this chapter shall not apply to non-refundable application fees that do not exceed one month's periodic payments for services rendered by the provider.

VI. If approved by the commissioner, a provider may post bond, negotiable securities, or a letter of credit with the commissioner in lieu of escrow. The institution providing a bond or a letter of credit must meet all requirements of and have the full approval of the commissioner. The amount of the bond, negotiable securities, or letters of credit shall be in the same amount as if the funds received from residents or prospective residents had been placed in escrow. Under this paragraph, a record of persons who made entrance fee payments and the amount of such payments shall be maintained as required under paragraph I of this section.

VII. An escrow agent shall return funds to the person, or the estate of the person if deceased, who paid the entrance fee if requested by the provider. A request to return funds to any other person shall be approved by the commissioner.

420-D:11 Pledging Assets. Only unencumbered assets of a facility may be pledged as collateral for another facility.

420-D:12 Contracts With Residents.

I. Each contract between a provider and a resident shall:

(a) Be written in plain, non-technical language.

(b) Cover only one resident, or 2 if sharing the same unit, and shall include the total amount transferred by the resident, or on behalf of the resident, to the provider. If securities or real or personal property are transferred to the provider instead of cash, the provider shall describe exactly the securities, property, or other goods transferred and the market value of securities or the professional appraised value of property or goods as of the date they were tendered.

(c) State specifically and in full detail all services and items to be provided to the resident including the locations where services and items will be provided, the duration of such services, and how often they are to be provided. The contract shall also describe which services or items are included in the agreement for continuing care and which services or items will be made available by the provider at an extra cost to the resident.

(d) State the conditions upon which the provider may evict a resident and the conditions upon which a resident may terminate his residency. A statement as to what portion of the entrance fee shall be returned under each condition shall also be included in accordance with RSA 420-D:12, II.

(e) Describe conditions required for a person to continue as a resident.

(f) Describe any conditions under which a person delinquent in his periodic payments may remain and if there is a specific time limit.

(g) State the entrance fees and periodic payment changes that may occur if a resident marries or if a spouse joins a resident. It shall also state the fee changes that may occur if either one of the 2 people who occupy the same living unit dies or otherwise leaves that living unit.

(h) Describe the terms and conditions under which a provider or a resident may cancel an agreement for continuing care. The contract shall also state that a minimum of 30 days' notice of cancellation must be given, except that a written medical finding by 2 doctors that a resident is a danger to himself or others shall require only reasonable notice.

(i) Describe in clear detail all the terms under which a contract is cancelled upon the departure or death of a resident.

(j) State the basis upon which the entrance fees are earned by the provider at the death of a resident, what portion, if any, shall be turned over to the estate of the resident, and the formula for calculating all amounts earned by the provider.

(k) Describe the conditions under which periodic payments may change. The contract shall state that a 60-day notice is required before a change in periodic payments shall take effect, except those periodic payments required by federal or state assistance programs.

(l) State that periodic payments for care paid in a lump sum shall not be changed during the period covered, unless the resident is receiving federal or state assistance and the change is mandated by those programs.

(m) Provide a period of 10 days during which a prospective resident may cancel a contract and have his deposit returned and that there is no requirement to move in during those 10 days.

(n) Provide that, within the 10 days under subparagraph (m), the provider shall make a full refund of all money, securities, goods, or property tendered by the prospective resident, except for any non-refundable initial application fee that does not exceed one month's periodic charges and any payments for actual services or goods provided to the prospective resident.

(o) Describe under what conditions a resident may be transferred to another living unit or another part of the facility together with the financial adjustments to be made as a result of such changes.

(p) Provide for full refund, except any initial non-refundable application fee of less than one month's periodic payment, if, before occupancy, death occurs or if there is a medically certified incapacity to move in.

II.(a) No contract issued pursuant to this section shall allow dismissal of a resident prior to the end of a contractual period, except for just cause in written form or if 2 doctors, one of whom is not an employee or associated with the facility, find that the resident is a danger to himself or to others. In such cases, the minimum refund shall be the unearned portion of the entrance fee in the contract with the resident.

(b) The commissioner or his designee shall intervene prior to a dismissal if so requested by the resident. If the commissioner finds that a resident is being or has been unjustly dismissed, he may, in his capacity as the intervenor, order the return of the entire entrance fee or take any other necessary action on behalf of a resident.

420-D:13 Transfer or Sale of Interest.

I. Any provider who plans to sell or otherwise transfer control, whether partial or entire, or an interest in the management or as-

sets of a continuing care community certified under this chapter shall notify the commissioner of the proposed change. The notification shall specify the amount of interest involved in the transfer, the type of transfer, and to whom. The commissioner may refuse to approve such transfer until full disclosure has been made, to his satisfaction, of the terms and conditions of the transfer and he has determined that such transfer is in the best interests of the residents and the state of New Hampshire.

II. If the commissioner determines that management control or more than 50 percent of the assets of the facility have been or are about to be transferred to another party, he shall cancel the existing certificate of authority and require that an application for a certificate of authority be submitted by the new provider within 30 days.

III. A temporary certificate in accordance with RSA 420-D:2 may be issued pending issuance of a new certificate if the commissioner believes that the new provider will likely qualify for a permanent certificate. If for any reason under this chapter the commissioner finds that he cannot issue a temporary certificate or a new certificate, or that the best interests of the residents are not being served, then he shall proceed under the provisions of RSA 420-D:9.

420-D:14 Waiver Prohibited. Contracts entered into prior to the date the provider receives the certificate of authority are valid and binding for those providers offering or providing continuing care on January 1, 1989; except that a resident or a prospective resident who has signed a contract prior to that date may request that his contract with the provider be changed to conform with the provisions of this chapter. However, any changes made to such contracts after the date when rules adopted by the commissioner in accordance with RSA 420-D:17 take effect shall conform to all provisions of this chapter and such rules.

420-D:15 Right to Organize and to Obtain Outside Consultation.

I. All residents have the right to self-organize, the right to be represented by an individual of their own choice, and the right to engage in concerted activities for their own purposes. They shall have the right both individually and severally to obtain outside advice and consultation of their own choosing on any matter, including, but not limited to, medical, legal, and financial matters.

II. A provider shall be available for meetings at least once each quarter of the year with residents or their representative. The meetings shall be for the purpose of providing a forum for free and open discussion of any point either wishes to discuss. If requested, the manager of a facility shall be present at such meetings, and the residents' organization may also request that an owner, partner, direc-

tor, or other official of the provider operating the facility be present. Residents shall be given at least 2 weeks' notice of each such meeting.

420-D:16 Rehabilitation or Liquidation.

I. The commissioner may, if it is in the best interest of the residents, petition the appropriate court to appoint a trustee to rehabilitate or liquidate a facility. Such rehabilitation or liquidation shall occur only if the commissioner finds, after proper notice and hearing, any of the following:

(a) That a provider is insolvent or bankrupt or in danger of becoming insolvent or bankrupt.

(b) That a provider has failed to maintain required liquid reserves under RSA 420-D:8.

(c) That any part of the reserve fund escrow amount under RSA 420-D:10 has been or is about to be released in violation of RSA 420-D:10.

(d) That a provider has been or is about to become unable to meet the cash flow or income projections for the period.

(e) That the certificate of authority has been suspended or revoked.

(f) That the provider named in a certificate has sold a majority interest or transferred management control to others without prior notification and approval by the commissioner.

II. A rehabilitation order shall authorize the commissioner, or the trustee, to take possession of the property of the provider, including all facilities owned by the provider within the state, to operate, including the employment or discharge or any facility employees as he may determine necessary, and to manage and take other measures the court may direct as necessary. The commissioner, trustee, provider, or the court on its own motion may petition for removal of a rehabilitation order and return the management of the facility to the provider, if the provider demonstrates that the objectives of the original order have been met and that no further jeopardy to the residents exists.

III. If attempts to rehabilitate the facility fail, the commissioner may apply to the court for an order to liquidate. A liquidation order, however, shall not require a prior rehabilitation order. An order to liquidate shall automatically revoke the certificate of authority for all facilities of the provider and shall include an order to liquidate all facilities owned by such provider.

IV. In applying for an order to rehabilitate or liquidate, the commissioner shall consider the best interests of the residents who have contracted for continuing care at the facility. The proceeds of liquidation shall be paid to other providers as full or partial entrance fees

for the affected residents or shall otherwise be used on behalf of the residents of the facility being liquidated. Except as provided in paragraph V of this section, in the event of liquidation, all continuing care agreements with a provider shall be deemed preferred claims against the assets of the provider.

V. A provider may avoid a rehabilitation order by posting a bond in an amount which is satisfactory to the commissioner. The bond shall be from a maker in this state who is acceptable to the commissioner and shall be in favor of the commissioner on behalf of those entitled to refunds or damages. It shall be in an amount sufficient to cover any refunds due the residents plus other amounts as determined necessary by the commissioner to protect the residents. Nothing in this chapter shall be construed to impair the priority, with respect to the lien property, of mortgages, security agreements, lease agreements, or installment sales agreements on property not otherwise encumbered which have been entered into by a provider with an issuer of bonds or notes and bonds which are secured by a resolution, ordinance, or indenture of trust if such mortgages or agreements were duly recorded at least 4 months prior to the institution of liquidation proceedings.

420-D:17 Rulemaking. The commissioner shall adopt rules pursuant to RSA 541-A and after public hearing, relative to:

I. Procedures for application for a certificate of authority under RSA 420-D:2.

II. Procedures for issuing a temporary certificate of authority and what constitutes extenuating circumstances under RSA 420-D:2.

III. Any application fees required under RSA 420-D:2.

IV. Procedures and fees for the renewal process under RSA 420-D:3.

V. Manner of filing and any other information to be contained in the disclosure statement required under RSA 420-D:4.

VI. Procedures for revocation or suspension of a certificate of authority under RSA 420-D:5.

VII. Procedures for hearings and notice requirements under this chapter.

VIII. Manner of filing and other information to be contained in the annual report required in RSA 420-D:7.

IX. The definition of major changes under RSA 420-D:7, II (c).

X. The definition of liquid reserves as required under RSA 420-D:8.

XI. Escrow conditions for liquid reserves under RSA 420-D:8.

XII. Procedures for obtaining and extending liens under RSA 420-D:10.

XIII. Procedures for placing entrance fees in escrow accounts and for releasing such fees under RSA 420-D:10.

XIV. The manner and content of all forms required under this chapter.

XV. What shall constitute cause for intervention under RSA 420-D:12, II.

XVI. A schedule of fees to cover the costs of administering this chapter.

XVII. Continuing care facilities under the division of charitable trusts in accordance with RSA 420-D:2, III.

XVIII. Any other matter necessary to the administration of this chapter.

420-D:18 Dividends. A provider subject to this chapter shall obtain prior approval from the commissioner before declaring and distributing any dividends or funds or other assets to owners.

420-D:19 Advisory Council Established.

I. There is hereby established an advisory council on continuing care. The advisory council shall consist of the following 9 members to be chosen, to the extent practicable, from different geographic locations within the state and 3 ex officio members:

(a) The insurance commissioner or his designee, who shall serve ex officio.

(b) The director of the division of elderly and adult services, department of health and human services, or his designee, who shall serve ex officio.

(c) The ombudsman of the office of the ombudsman, department of health and human services, or his designee, who shall serve ex officio.

(d) Two members who are administrators of facilities which have held valid certificates of authority for at least 3 years under this chapter; provided that initially and until January 1, 1993, one or more may be managers of existing life care communities or managers of newly organized life care communities. Before these initial appointments shall be made, the commissioner shall advise the governor that to the best of his knowledge the facilities they manage will have the ability to meet the requirements of this chapter.

(e) A representative of the business community who has demonstrated expertise in the area of management.

(f) A representative of the financial community who is not and never has been a facility owner or administrator or related to one.

(g) A certified public accountant.

(h) An attorney who is not and never has been a facility owner, adviser, or administrator or related to one.

(i) Three public members, at least one of whom must be a life care community resident and one of whom may be a member of the general court.

The members in subparagraphs (d) through (i) shall be appointed by the governor with approval of the council on or before April 1, 1989. The term of office of each member appointed by the governor and council shall be 3 years and until his successor is appointed and qualified. The governor shall stagger the terms of the initial appointments to the council so that 1/3 of such appointments shall expire after each year for the first 3 years. Vacancies shall be filled in the same manner and for any unexpired terms. Each member of the advisory council shall be reimbursed for his necessary expenses of travel and subsistence.

II. Each prospective council member shall submit a statement to the governor detailing any financial interest of 10 percent or more in any life care facilities, including, but not limited to, ownership interest in a facility, or in a firm owning or managing a facility, property leased to a facility, and ownership in any firm or organization providing goods or services to a facility. This statement shall include the name and address of each facility and the extent and character of the financial interest of the applicant. If the applicant is appointed an advisory council member, this statement shall become a public document subject to RSA 91-A.

III. The council shall:

(a) Meet within 30 days after appointment and elect a chairman and secretary who shall serve for one year or until a successor is elected.

(b) Hold an annual meeting and such other meetings at times and places as the commissioner or the chairman deems necessary.

(c) Keep a record of its proceedings. The books and records of the council shall be prima facie evidence of all matters reported therein and shall be open to inspection by the public at reasonable times.

(d) Act in an advisory capacity to the commissioner and members of the department of insurance.

(e) Recommend to the commissioner necessary changes in statutes and rules.

(f) Upon request of the commissioner, assist in the rehabilitation of facilities.

420-D:20 Civil Liability.

I. In the following circumstances, a provider or his agent shall be liable for damages, entrance fees with any accrued interest, and attorneys' fees, plus any other fees paid in advance of receipt of services:

(a) If he enters into contracts for continuing care for a facility that does not have a certificate of authority or a temporary certificate of authority under this chapter;

(b) If he did not deliver a disclosure statement before entering into a contract; or

(c) If a disclosure statement is misleading and induces acceptance of a contract for continuing care or induces payment of any money or transfer of anything of value by a resident or prospective resident.

II. Negligent misrepresentation or omission shall not preclude recovery under this section.

III. An action pursuant to this section may be avoided if the provider, upon written approval of the commissioner, makes a good faith offer to refund all fees and costs listed in paragraph I. Failure of a resident or prospective resident to accept such an offer within 60 days shall preclude further action by such resident or prospective resident. Any action brought pursuant to this section shall be in accordance with applicable state law. An action brought under this chapter shall not limit the liability of the provider under other state laws. A private party shall not be liable by implication unless expressly permitted under this chapter.

420-D:21 Investigations; Subpoenas. The commissioner may make such investigations as he deems necessary both within and outside the state. For the purpose of any investigation or proceeding under this chapter, the commissioner may administer oaths, subpoena witnesses, compel attendance, take evidence and require the production of necessary material. All actions may be enforced by any court having jurisdiction. The records of any active investigation and the records necessary to complete such an investigation are confidential and shall not be subject to public inspection under RSA 91-A for as long as reasonably necessary to complete the investigation.

420-D:22 Records and Assets to be Kept Within State. All records and assets shall be established and kept in the state of New Hampshire and shall not be removed from this state by a provider or his agent unless agreed to in writing by the commissioner prior to such removal. The commissioner shall consent to such removal only if the provider submits satisfactory evidence that the removal will facilitate a more economical operation and will not diminish the service or protection given to the residents remaining in this state. The commissioner may order the return of the records and assets if such return is in the best interests of the residents or of the state.

420-D:23 Audits. The commissioner or his agent shall audit the books and records of a facility subject to this chapter as frequently

as he deems necessary to assure the accuracy of reports to him taking into consideration other independent audits required under this chapter.

420-D:24 Cease and Desist Orders. If it appears that any person subject to this chapter has engaged or is about to engage in acts violating this chapter or any rule adopted pursuant to it, the commissioner may issue an order to cease and desist and bring court action to enforce compliance or enjoin such action. Upon proper request, a court may issue a permanent or temporary injunction, restraining order, or writ of mandamus, and a receiver or conservator may be appointed for the defendant or the defendant's assets. The commissioner shall not be required to post bond.

420-D:25 Fees. The commissioner shall charge providers subject to this chapter a fee for services rendered to them by the department of insurance. The fees shall be established and adopted by rule under RSA 541-A and shall be sufficient to cover the costs of administering this chapter.

420-D:26 Criminal Penalties. Any person, partnership, association or corporation, including state or county or local governmental units or any division, department, board or agency thereof, establishing, conducting, managing, or operating any facility within the meaning of this chapter without first obtaining a certificate as provided in this chapter, or who violates any rule adopted under this chapter, shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person. Nothing in this section shall preclude any other action at law against such person.

3 Rulemaking. The insurance commissioner shall begin the rule-making process under RSA 541-A in anticipation of this act's becoming law on January 1, 1989.

4 Committee Established.

I. There is hereby established a committee for the purpose of making recommendations to the general court relative to legislative changes necessary for regulation of those facilities reporting to or under the supervision of the director of charitable trusts as described by RSA 420-D:2, III. The members shall be:

(a) Three representatives of continuing care facilities under the supervision of the director of charitable trusts, appointed by the governor.

(b) The director of the division of charitable trusts or his designee.

(c) The commissioner of the insurance department or his designee.

(d) Two members of the house of representatives, appointed by the speaker of the house.

(e) Two members of the senate, appointed by the senate president.

II. The committee shall submit its report together with specific recommendations for any amendments to the speaker of the house, the president of the senate, and the governor no later than July 1, 1989.

III. The members shall serve without compensation except the legislative members shall receive mileage at the legislative rate when tending to the duties of the committee.

5 Appropriation. The sum of \$5,000 for the biennium ending June 30, 1989, is appropriated to the insurance department for the purpose of reimbursing the expenses of members of the advisory council established under RSA 420-D:19. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

6 Effective Date.

I. Section 3 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect January 1, 1989.

Amendment adopted. Ordered to Third Reading.

HB 480, recodifying the county corrections laws. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: As you may recall, this was quite an extensive bill that we tried to correct on the last day of session, but, as we tried to correct it we kept compounding our problems. All the counties got together and this is an agreed bill. Don Pfundstein has gone over it in detail and hopefully we haven't left too much out.

It solves several problems. It has comprehensively recodified the current law on county correctional matters and it pulls sections together throughout the RSA's and puts them all into one chapter. It makes technical corrections and updates archaic language. It really is beneficial to the state, especially to the county government and it is what they really want.

As amended there is a change whereby juveniles who are not certified to be treated as adults under the criminal code are not to be detained in the state prisons, so that is one thing that was there. As the bill is before you, there are anticipated no additional cost to either the state or the county. It is just a matter of upgrading the current statutes.

Amendment to HB 480

Amend RSA 30-B:1 as inserted by section 1 of the bill by replacing it with the following:

30-B:1 County Department of Corrections. Each county shall provide, keep, and maintain facilities, administered by a county department of corrections, for the reception and confinement of prisoners committed to or ordered to be detained at a county correctional facility.

Amend RSA 30-B:20 as inserted by section 1 of the bill by replacing it with the following:

30-B:20 Work Release. Any person sentenced to imprisonment in a county department of corrections facility may be released therefrom by the sentencing court at the time of sentence, or at any time during the term of sentence, by the court for such purpose as the court may deem conducive to his rehabilitation. Such release shall be for such terms or intervals of time and under such terms and conditions as the court may order the superintendent to impose. Any part of a day spent in the free community under such a release order shall be counted as a full day toward the serving of the sentence unless otherwise provided by the court. If a person violates the terms and conditions laid down for his conduct, custody, or employment, the court may require that the balance of the person's sentence be spent in actual confinement and may cancel any earned reduction of his term. If the superintendent refuses to permit a person confined, who is otherwise eligible for a work release program, to participate in such program, that person shall have the right to petition the court for a hearing on the matter, and the decision of the court shall be conclusive.

Amend RSA 30-B:21 as inserted by section 1 of the bill by replacing it with the following:

30-B:21 Temporary Removal or Transfer. Any person confined in a county department of corrections facility may be transferred to any other county department of corrections facility or to the county department of corrections in another county when such transfer is in the public interest. The transfer proceeding shall be by petition of the superintendent of the transferring county department of corrections to the original sentencing court, subject to the approval of the county commissioners of the county to which the transfer is planned. Said court may, after hearing and for good cause shown, order such

transfer under such terms and conditions as appear necessary. The expense of transfer and maintenance shall be paid by the county petitioning for the transfer, unless waived by the receiving county department of corrections in accordance with a reciprocal or other arrangement between the counties involved. The superintendent of the transferring county department of corrections shall have custody over the prisoner during the transfer by a regular or specially authorized officer of that county. Upon admittance to the receiving facility, the prisoner shall be under the custody of the superintendent of the receiving county department of corrections.

Amend the bill by deleting section 31 and renumbering sections 32-35 to read as 31, 32, 33, and 34 respectively.

Amend the bill by replacing all after section 32 with the following:

33 Repeal. The following are repealed:

I. RSA 619, relative to common jails and prisoners of common jails.

II. RSA 620, relative to houses of correction.

34 Purpose and Explanation. The purpose of this act is to recodify in a comprehensive manner existing county correctional laws which are presently scattered throughout the Revised Statutes Annotated. This recodification makes no substantive changes in the present laws and requires no additional funding on the state, county, or local level. This recodification deletes and updates certain archaic language and repeals obsolete sections of the law.

35 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted. Ordered to Third Reading.

HB 714, relative to assessment of open space land. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: Basically, this was another bill that had a study committee reviewing the current use assessment and we felt until they came up with all their amendments we would hold up the passing of the bill in the 87th session.

As amended it authorizes selectmen and assessing officials who apply a scientific standard to measure farmlands potential productivity. This measure of productivity, developed by the United States Soil Conservation Commission, is called the Soil Potential Index. It is up to the owners of the land to get this information to the selectmen or assessing officials. The bill as amended is limited to farm-

land, where as originally the bill was very broad and could have included forests. The bill will help to modernize the assessment procedure and make it less prone to seem arbitrary by helping the officials to be more exact.

Amendment to HB 714-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the assessment of farm land.

Amend the bill by replacing section 2 with the following:

2 Assessment of Farm Land; Soil Potential Index. Amend RSA 79-A:5, I to read as follows:

I. The selectmen or assessing officials shall appraise open space land as classified under the provisions of this chapter, excluding any building, appurtenance or other improvement thereon, at valuations based upon the current use values established by the board. The selectmen or assessing officials shall use the soil potential index when available, to determine the value of farm land within the ranges established by the board. It shall be the duty of the owner to provide the soil potential index to the selectmen or assessing officials.

Amendment adopted.

Senator White offered a floor amendment.

SENATOR WHITE: I apologize for this amendment not being in the bill that is before you, but it fell through the cracks when we were trying to rush the re-referred bills to get them processed.

Basically, what this amendment does is it gives rule making authority to the department of revenue. Arthur Danny called me when he saw the calendar, and said, "you forgot to put in the rule making authority," and I said, "Oh I'm sorry," so that this was another recommendation by the study committee that was reviewing the open land. By doing this amendment, it authorizes the commissioner of revenue administration to adopt the rules for current use taxation and implements the recommended schedule of criteria and values submitted each year to the commissioner by the current use advisory board. So in other words, as they change land values, it will come before the joint rules committee and we will know exactly what is happening and we will have some oversight into what is happening in the current use assessment criteria.

SENATOR JOHNSON: Senator White, what is the potential effect upon land owners who currently have land in current use?

SENATOR WHITE: There is no change in that, but, as you know, from time to time, the current use advisory board sets down different land values and up until now they could just do it without having any legislative oversight. So, this brings the legislative oversight into it via the joint rules.

Floor Amendment to HB 714-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to assessment of open space land and the adoption of
rules by the commissioner of revenue administration
for the purposes of RSA 79-A.

Amend the bill by replacing section 3 with the following:

3 Rulemaking by Commissioner of Revenue Administration.
Amend RSA 79-A:4, III to read as follows:

III. Prior to February 1 of each year, it shall submit to the commissioner its recommended schedule of criteria and values for current use assessment for the current tax year. The commissioner shall [then distribute such recommended valuations to all selectmen and assessing officials] adopt rules, pursuant to RSA 541-A, to implement the recommended schedule of criteria and values.

4 Rulemaking by Commissioner of Revenue Administration.
Amend RSA 79-A:5, V to read as follows:

V. [The commissioner shall execute such other forms, procedures, and regulations as are needed] As directed by the board, the commissioner shall adopt rules, pursuant to RSA 541-A, for other forms and procedures as are needed to implement this chapter and to assure a fair opportunity for owners to qualify under this chapter and to assure compliance of land uses on classified lands.

5 Rulemaking by Commissioner of Revenue Administration.
Amend RSA 79-A:15, IV to read as follows:

IV. [The current use advisory board] As directed by the board, the commissioner shall adopt by rule under RSA 541-A, a definition of "golf course," based on open space objectives, for the purpose of this subdivision.

6 Effective Date. This act shall take effect 60 days after its passage.

Floor amendment adopted. Ordered to Third Reading.

HB 403-FN, clarifying penalty provisions for violations of local codes and regulations, relative to district court jurisdiction over such penalties, and enabling district court judges to issue temporary orders enjoining violations of local land use regulations. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: This is a bill that was before us several times and has been opposed by the home builders and the bar association and other organizations. What we did was, we let them all work out a compromise over the summer and then we had a hearing in the fall. The bill was originally presented with some serious problems found in enforcing local land use codes and regulations. It was re-referred because of some questions in its original scale.

As amended this bill gives some teeth to the current laws which is long overdue and have not been useful to the municipalities trying to enforce their codes. The bill clarifies certain penalty provisions in order to avoid confusion which had caused delays for the towns once they were in court. Any one having been a selectmen will know that you never really could enforce any of the zoning ordinances. So, the bill also gives the district court certain jurisdiction, along with the superior court, so that some actions can be started in the district court which will be faster and less expensive and burdensome to the municipalities. The Bar Association agrees with the changes by taking out the pieces that were objectionable to them. When the Home Builders came in and saw the amendment, they did not rise in objection to the bill. So, it is a completely agreed bill and I think that all the cities and towns will appreciate it.

Amendment to HB 403-FN

Amend the title of the bill by replacing it with the following:

AN ACT

clarifying penalty provisions for violations of local codes
and regulations, and relative to district court
jurisdiction over such violations.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; District Court Local Regulation Enforcement.
Amend RSA 502-A by inserting after section 11 the following new section:

502-A:11-a Local Regulation Enforcement.

I. The district court shall have concurrent jurisdiction, subject to appeal, of the prosecution of any violation of a local ordinance, code, or regulation properly adopted pursuant to enabling statutes to the extent that such violation, by statute or by local ordinance, code, or regulation:

(a) Is characterized as a misdemeanor or violation within the meaning of the criminal code, in which case penalties shall be consistent with RSA 651.

(b) Is punishable by a civil penalty, in which case the penalty imposed shall in no event exceed the limits of the district court's civil damages concurrent jurisdiction as set forth in RSA 502-A:14, II.

II. This section shall not be construed to diminish the jurisdiction of the superior court to hear and decide matters in which municipalities seek to enforce local ordinances, codes, or regulations through equitable or other relief.

2 Jury Trial in Superior Court. Amend RSA 592-A:2-b to read as follows:

592-A:2-b Jury Trial. Trial by jury shall not be afforded in the superior court for any violation as defined in RSA 625:9, except upon an appeal pursuant to RSA 599:1 of the imposition of a civil penalty which aggregates the total fines and penalties for a violation to an amount in excess of \$500.

3 Appeals from Convictions in Municipal or District Court. Amend RSA 599:1 to read as follows:

599:1 Appeals. A person sentenced by a district or municipal court for a misdemeanor or for any offense which provides the basis for enhanced penalties if the offender is subsequently convicted of the same offense, or who has been sentenced by the imposition of a civil penalty bringing the total fines and penalties for a violation to an amount in excess of \$500, may, at the time the sentence is declared, appeal therefrom to the superior court. The appeal shall be entered by the appellant at the next return day unless for good cause shown the time is extended by the superior court. In all misdemeanor cases which are so appealed or in which defendants are bound over it shall be the duty of [the clerk of] the superior court to transmit to the justice of the district or municipal court, within 10 days after the case is finally disposed of, a certificate showing the final disposition of the case.

4 Civil Penalty Distinguished from Fine. Amend the introductory paragraph of RSA 651:2, IV to read as follows:

IV. A fine may be imposed in addition to any sentence of imprisonment, probation, or conditional discharge. The limitations on amounts of fines authorized in subparagraphs (a) and (b) shall not

include the amount of any civil penalty, the imposition of which is authorized by statute or by a properly adopted local ordinance, code, or regulation. The amount of any fine imposed on:

5 Clarification of Injunctive Relief for Land Use Violations. Amend RSA 676:15 to read as follows:

676:15 Injunctive Relief. In case any building or structure or part thereof is or is proposed to be erected, constructed, altered, or reconstructed, or any land is or is proposed to be used in violation of this title or of any local ordinance, code, or regulation adopted under this title, or of any provision or specification of an application, plat, or plan approved by, or any requirement or condition of a permit or decision issued by, any local administrator or land use board acting under the authority of this title, the building inspector or [the solicitor of the municipality] other official with authority to enforce the provisions of this title or any local ordinance, code, or regulation adopted under this title, or the owner of any adjacent or neighboring property who would be specially damaged by such violation may, in addition to other remedies provided by law, institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent [or], enjoin [or], abate, or remove such unlawful erection, construction, alteration, or reconstruction.

6 Clarification of Fines and Penalties for Land Use Violations. RSA 676:17, I is repealed and reenacted to read as follows:

I. Any person who violates any of the provisions of this title, or any local ordinance, code, or regulation adopted under this title, or any provision or specification of any application, plat, or plan approved by, or any requirement or condition of a permit or decision issued by, any local administrator or land use board acting under the authority of this title:

(a) Shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

(b) Shall be subject to a civil penalty not to exceed \$100 for each day that such violation is found to continue after the conviction date or after the date on which the violator receives written notice from the municipality that he is in violation, whichever is earlier. 7 New Paragraph; Commencement of Action by Building Inspector. Amend RSA 676:17 by inserting after paragraph IV the following new paragraph:

V. The building inspector or other local official with the authority to enforce the provisions of this title or any local ordinance, code, or regulation adopted under this title may commence an action under paragraph I either in the district court pursuant to RSA 502-A:11-a, or in the superior court. The prosecuting official in his discretion may, prior to or at the time of arraignment, charge the

offense as a violation, and in such cases the penalties to be imposed by the court shall be limited to those provided for a violation under RSA 651:2 and the civil penalty provided in subparagraph I(a) of this section. The provisions of this section shall supersede any inconsistent local penalty provision.

8 Effective Date. This act shall take effect January 1, 1989.
Amendment adopted. Ordered to Third Reading.

HB 295-FN, relative to the board of tax and land appeals. Ought to Pass. Senator Roberge for the Committee.

SENATOR ROBERGE: HB 295 needs to pass to clear up inconsistencies in the current RSAs, specifically that apply to filling fees where fillings are made and notice requirements and appeal procedures to the New Hampshire Supreme court. I urge ought to pass.

Adopted. Ordered to Third Reading.

HB 652-FN, relative to wine importers, the delivery of wine, and a definition of "warehouse". Inexpedient to Legislate. Senator Roberge for the Committee.

SENATOR ROBERGE: The rules currently in place of the liquor commission enabled the pilot program to start last September. Reports by the wine merchants and the liquor commission indicate that the program is progressing and this bill is not necessary.

Adopted.

HOUSE MESSAGE

HOUSE REQUESTS CONCURRENCE

HCR 14, relative to Joint Rules

Senator Hough moved adoption of HCR 14.

SENATOR HOUGH: I urge you to vote favorably on the motion to accept HCR 14 which is before you. This is the adoption as the House has just adopted the joint rules for the second year. It sets the dates. We have been working under these dates, or anticipation of these dates, for the last month or so. Crossover date will be February 18th, final action on April 14th in the second body, committee of conference's the 21st of April and to the Governor by the 25th. Under the schedule, which we already started with the hearings and reports working very heavily in January, we can meet these objec-

tives and these dates have been agreed to. I would trust that you would support concurrence with the House passage of these joint rules and I move that you do so.

SENATOR WHITE: If we follow this, then I would assume we will have approximately six weeks in the Senate to do the work? If we come back on the 9th of March, we have five weeks to complete all the business of all the House bills, is that what you're saying?

SENATOR HOUGH: If that's what the numbers are then that's what it is. We can do it, we work hard and we work well together.

SENATOR WHITE: Good.

Adopted

RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time and that when we adjourn, we adjourn until Tuesday, January 12, 1988 at 2:30 p.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 240-FN, relative to sewage disposal systems on waterfront properties and expanded use of sewage disposal systems.

HB 571, relative to the certification and financial management of life care facilities and making an appropriation therefor.

HB 480, recodifying the county corrections laws.

HB 714, relative to assessment of open space land and the adoption of rules by the commissioner of revenue administration for the purposes of RSA 79-A..

HB 403-FN, clarifying penalty provisions for violations of local codes and regulations, and relative to district court jurisdiction over such violations.

HB 295-FN, relative to the board of tax and land appeals.

Senator Dupont moved to adjourn.

Adopted.

Adjournment.

Tuesday, January 12, 1988

The Senate met at 2:30 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, help us in these fast moving days. The often times confusion with the Presidential candidates, as to whom will be the best to lead our Country, in the light of world events! May our Governor, in his State of the State Address, be mindful of the needs of all the people of this State. Enlighten us all, Lord.

Amen

Senator Dupont led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

Senator Dupont offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 17 through 705-FN shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 17, relative to building codes in municipalities. (Public Affairs)

HB 41, providing that the condemnee shall have first option to purchase any property condemned by eminent domain, if said property is abandoned for any reason by condemnor. (Executive Departments)

- HB 58, relative to the disqualification of local land use board members. (Public Affairs)
- HB 207-FN, relative to the siting and permitting of solid and hazardous waste disposal facilities. (Development, Recreation and Environment)
- HB 214-FN, relative to penalties for violations of motor vehicle laws by minors. (Transportation)
- HB 381-FN, relative to growth limitation. (Internal Affairs)
- HB 404-FN, establishing a road pay-back fee system. (Internal Affairs)
- HB 447, relative to the right to know law. (Judiciary)
- HB 452, relative to demerit points for younger drivers. (Transportation)
- HB 496, relative to the regulation and restoration of excavations which existed on or before August 24, 1979 (Development, Recreation and Environment)
- HB 499, relative to return of recovered property. (Judiciary)
- HB 502, delegating site plan review powers to special site review committees. (Interstate Cooperation)
- HB 504, relative to the placement of candidates' names on ballots. (Executive Departments)
- HB 564-FN, authorizing any city or town to issue revenue bonds. (Finance)
- HB 585-FN, establishing a committee to study motor vehicle emissions controls. (Transportation)
- HB 606-FN, relative to lock-up of children. (Public Institutions, Health and Human Services)
- HB 615-FN, relative to complaints of insurance unfair trade practices. (Insurance)
- HB 639-FN, relative to certification of soil scientists. (Executive Departments)

HB 648-FN, creating a political subdivision waste disposal financial relief study committee and changing a statutory reference in the hazardous waste laws. (Development, Recreation and Environment)

HB 705-FN, relative to itinerant vendors. (Interstate Cooperation)

HOUSE NONCONCURS

SB 132, relative to the appointment of the executive director of the department of fish and game.

SB 208, adopting uniform commercial code article 2A-leases.

HOUSE REFERS TO INTERIM STUDY

SB 2, mandating health insurance for alcoholism and drug dependency treatment.

SB 224-FN, relative to licensing estheticians.

COMMITTEE REPORTS

HB 418, relative to mutual holding companies. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: To refresh your memory, a little bit of back ground on 418. A couple of sessions ago, we had a bill that allowed mutual savings banks to form holding companies rather than convert to stock form. At the time, we passed the bill but there was concern about a special class of directors qualifying shares, if a mutual holding company was formed. This bill, basically, provides a technical correction on the rights of those directors qualifying shares. A mutual bank is really a vanishing species in the State, most of them have converted to stock. The reason the mutual bank holding company bill was put in was as a result to a bank in my area that was interested in forming a holding company but did not want to have to convert to a stock form of ownership. So, it does not apply to any banks other than the mutuals and would only apply to a mutual that decided to form a mutual holding company. Basically, that's all it does.

Adopted. Ordered to Third Reading.

HB 708, relative to excess electric generating capacity. Ought to Pass with Amendment. Senator Krasker for the Committee.

SENATOR KRASKER: You can look on your calendar on page 8 and you will find the bill as it has been amended by the committee. It has been brought to you with an ought to pass with amendment report. 708 is a bill that passed the House in the last session, it came to the Senate late and it was the decision of the Senate to re-refer this bill to the Dev. Rec. committee because there was confusion, it seemed, about some of the language, particularly in the area of discount rates. The bill was confusing to people and so we agreed to take the bill back and work on it. We did have two work sessions with the sponsors, with Public Service, people were really cooperative and Public Service had indicated that it really wanted to participate in this bill with the sponsors to see if we couldn't arrive at something that would satisfy everybody. I think we were all very grateful for that. Most of the points that were in contention were reconciled. There were provisions that we included at the request of Public Service of New Hampshire. It finally came down to how much in this bill, which is called excess capacity, should be excess and Public Service felt that they should be given more leeway as to what would be considered excess capacity. It was finally our belief, the sponsors and the members of the committee who voted for this, that this really was the minimal approach given the magnitude of the situation. That it was the bottom line because anything else would become a Public Service bill and not a consumer bill. We can't forget why this bill was introduced in the first place. It really is a consumer bill and it used a mechanism, a technique that's a nationally recognized way to deal with the issue of rate shock. I had never heard of it, I have to tell you, before a few years ago when the first bill came through. But it's a legitimate rate making device. It has been used in other states where there was going to be a possibility or a probability of very, very sharp rate increases; Kansas, Iowa and Pennsylvania have used it.

Now, to refresh your memories, HB 708 is designed to protect the customers of Public Service of New Hampshire, the New Hampshire customers, from some of the large rate increases when Seabrook begins to produce electricity, and everybody admits that there are going to be rate increases, very high rate increases. In the early years, Seabrook is going to provide more power than New Hampshire Public Service customers can use and this is the excess capacity, it's the extra electricity that we're not going to use in New Hampshire. 708 is going to reduce the effect of the rate shock by removing from the rate base, which is what we pay in our rates, just the equity portion, the profit portion of the power from Seabrook that we're not using in New Hampshire. These are Public Service

figures, according to the consumer advocate, that Seabrook will have an excess capacity, that means we're not going to use it in the State, of between 170 and 283 megawatts during the first five years that Seabrook is on line. I have a chart, it's like show and tell, but it's what they used in the House and just let me show you that to devise rates, the PUC uses the complicated formula, which very frankly I couldn't interpret for you. But, it has components in it. One of the components is their operating cost. They have to have enough money, a utility, to operate and so we pay for that in our rates. Also, there's a debt component. We have to give them the money to pay their debts. The third component is the profit component; they are given a certain rate of return. This is the equity portion. For everything that we use in New Hampshire, we're going to pay the whole thing. For this little extra, this excess capacity that could be 170, that could be more, we're still going to give Public Service everything Public Service needs to operate. We're going to give them their operating, their debt, but we're saying to the stock holders, the burden on New Hampshire rate payers is going to be so high that just on what we're not using in New Hampshire, you don't get the profit of the equity portion on that, for what we use in New Hampshire they get everything. They do get their profit. You should remember that the New Hampshire rate payers are still going to assume an enormous burden even if this equity portion is removed. We're just asking for some sharing of the burden.

Do you all have these sheets that I've asked to be passed out? To give you an idea of what this means, the total annual revenues for Public Service right now, and this comes from the consumer advocate's office, are approximately 473 million dollars a year. This doesn't include the 15% proposed rate increase. The Seabrook Nuclear Plant will result in a substantial additional revenue requirement because, remember, we're going to have to pay 2 billion dollars eventually for this plant. The full impact of Public Service of New Hampshire's 409 megawatts, that's New Hampshire's share of Seabrook, would be increased rates of approximately 600 million dollars a year and this is a conservative estimate. Take every thing we pay now, in the first years, this is going to more than double. There's a considerable revenue savings when we remove the equity portion and what you have to look at and what is this complicated sheet are just what's in green and what's in yellow. We're going to pay, if you look at the first column of the 409 megawatts if 100 megawatts are excess capacity, we're going to pay to Public Service for its operating costs and its debt, 50 million dollars. But we will withhold from the stockholders, 61 million dollars. This is the equity portion of what is

excess. If you go to column two, you get 200, if 200 megawatts are excess, we're going to pay 99 million but we're going to save 122 million. If 300 megawatts are excess out of the 409, we would still pay Public Service what they need to operate, 149 million dollars on the excess capacity, but we would save 183 million. This is a considerable revenue saving for the rate payers of New Hampshire.

If you look at the bill, you see that there is criteria for this bill taking effect in any situation. First of all, it would increase the company's total generating capacity in excess of its New England power pull capability. That sounds very, very confusing, so there's another show and tell chart. Right now in New Hampshire, we have a certain base load and this is what we need on a regular daily basis. Then we have a peak demand which only occurs, as you can see, between maybe 4 and 14 days a year and then only in the early morning or the early evening, this is peak. The highest peak load ever was 1260 megawatts. What this bill says is, that in addition to all of this, which is everything we need at the very highest point, we're going to take the industry's own requirement, which now is 28% above peak, and we're going to say we're going to give you this too. We're not going to figure that this is excess capacity but, beyond that this is excess capacity and is figured in to the purposes of the bill.

The second criteria is B and it means if rates would increase by 50% with the addition of that utility plant and is there any one who's in favor of rates increasing that much? On the second page, we added the November first date so as not to penalize Public Service for any arrangements that it's already made with Merrimack. We also added, at the bottom of that page, at Public Service request, that conservation, any attempts they made in the area of conservation should not penalize them because we want them to be doing economical things. Then we added one more clarification, I guess you can say, we have really defined what we mean in this statute for the purposes of excess capacity and we've said that one of the criteria that the PUC uses in setting rates, is used and useful. We've set this out so that this bill is consistent with what we already provide for a judgment. Businesses, as you know, are already negotiating and being granted relief from rate shock. Many of them are threatening to leave the State or generate their own. Those of us who voted for this bill believes that this is a consumer relief bill. It's a relief for residential and small business users. There's no place else that we can go. I think it finally comes down to the bottom line, are you going to provide some relief to our constituents or not. And that is what 708 will do. I'd be glad to answer questions.

SENATOR JOHNSON: With all due respect to my esteemed colleague from the 24th district and a person who has done an admirable job presenting this bill today, probably one of the best that I've witnessed in the five years that I've been in the Senate. I think that she has done a service to the State of New Hampshire regardless of the out come of this bill. Having said that, I do rise in opposition to HB 708 and in doing so, I do not want to be viewed as a cheerleader for the management of Public Service of New Hampshire. My vote will reflect what I consider to be in the best interest of we, the rate payers. Here are my four reasons: first, I think the bill is premature. Seabrook station may never come on line. Secondly, I believe the bill, particularly this year, is untimely. Public Service of New Hampshire has enough problems right now and does not need another negative signal from the legislature. Along that same line, clearly we all know that the situation facing the rate payers, facing the utility, is a very fluid situation. You almost have to read the papers every day to find out what the latest situation is. Third, I believe there's an element of short sightedness that actually comes out, certainly not intentional, but nonetheless, I believe is there. Individuals, businesses, government, and yes, utilities, all need to plan for the future. We all need a cushion and in that regard, I'm darn glad that the other utilities of the northeast had a cushion in their capacity that they were able to distribute to New Hampshire when the temperature went to 23 degrees below zero in Concord, two mornings ago. Finally, I think the definition of excess capacity is, even though there's been a lot of work on it, is still somewhat subjective and subject to change as circumstances change and as the fluidity that I referred to occurs. Senator Krasker mentioned profit. Well, frankly, I think it'll be a cold day in hell before Public Service pays any profit to the rate payers.

SENATOR DISNARD: Senator Krasker, is this a stop Seabrook bill?

SENATOR KRASKER: No. This bill wouldn't even begin until Seabrook was operating.

SENATOR BOND: I rise in opposition to HB 708. I'd like to clarify something about the base load. First I'd like to say that the highest peak load is now in excess of 1300, that is more than the 1260 and there is continuing growth and consumption. The point that I'd like to address is 13% of the power that is sold, out of the base load, by Public Service is purchased from small power producers. Small power producers who are protected by legislation which was devel-

oped to protect the consumer in the event of another oil boycott, to make it possible for small power producers to generate electricity and have a market. There is a facility in my district which right now generates and sells 15 megawatts to Public Service at 13 cents per kilowatt-hour. It doesn't use any of its own electricity to operate, it buys electricity from Public Service at 7 cents an hour to operate all its equipment and run its lights. 13% of the power that Public Service has in its big base load, it buys from small power producers. In most cases, at a rate considerably above what it could produce that power for itself. It does not make a profit on that power. It passes that cost of 13 cents, or 12 cents or 9 cents, through to the consumer without adding any profit to it. In fact, that 13% of power is 43% of the cost of power to the utility. So, before you go penalizing them for their excess capacity sales, you should think about, and I don't know what the answer is, to dealing with what the real excess capacity is for Public Service. Thank you.

SENATOR FREESE: I was the one person on this committee that voted in opposition to HB 708. It simply is not responsible to consider passage of excess capacity to legislation, I don't believe at this time. Forgetting for a minute the concept and the mechanics of what the bill will and won't do, we have a utility, the State's largest electric utility, already on the verge of bankruptcy. Serious consideration of this legislation is, in my opinion, totally inappropriate. In a time when PSNH is fraught with financial difficulties, and at a time when ironically the electric power needs of New Hampshire have never been greater, what would be our objective? Most folks should and do recognize a healthy utility is in everyone's best interest. In order to be healthy, a utility needs to be able to attract investors. It appears that this bill would only serve to increase the level of risk associated with the investment. The result, which would ultimately be consumers paying more, should this bill pass. I seriously question whether this is a kind of signal we should be sending to our utilities today. News media accounts, since this past summer, have shown record peak demands for electricity. Public Service can not meet its present obligations to customers without purchasing other New England utilities excess capacity. It has been doing so for almost ten years. The idea of excess capacity is not a new one nor is it restricted just to utilities. Any growth oriented business or project will involve advanced preparation for additional growth. Again, given the already precarious position of PSNH, I believe that HB 708 only holds potential for doing more harm, if that's possible, and fail to see any merit or immediate need to pass the bill. I urge you to avoid not to do something that can only make the situation worse. It just doesn't

make sense for us, as legislators, to pass a law that mandates Public Service Company to purchase all available energy from small power producers in this State and then turn around and penalize them with a bill like this for doing so. Even a healthy company would have trouble surviving on this basis. What this boils down to is a question of fairness and this bill just isn't fair. If Public Service Company is going to take care of the peaks and valleys in our energy supply and satisfy their customers, they are going to have to have power reserved and that costs money. They should be allowed to charge these equity costs.

SENATOR PRESTON: I just want to clear up a couple of points that Senator Johnson's remarks, I'm sure as the question was asked by the Senator, that this doesn't go into effect until Seabrook goes on line, as far as this bill is concerned Senator. Under the existing law, the customers of Public Service Company of New Hampshire really would be forced to pay for power they don't use. This extra electricity that we're referring to today, in this bill, is the excess capacity. The Seabrook Power Plant would provide much more power than we would consume as PSNH customers could possibly use and consequently there would be the excess capacity addressed in this bill. The fact is that this legislation, if passed, could save the consumers, your constituents, the voters, hundreds of millions of dollars annually. The Seabrook plant will produce for Public Service of New Hampshire only 409 megawatts of power. The yearly cost without this legislation will be 500 million dollars or nearly half of that being a profit for Public Service Company stockholders. HB 708 is a consumer bill. It protects the New Hampshire consumers from paying a profit to Public Service Company on electricity that they the customer will never, ever use. For an example, if all of Seabrook is put in to the rate base and PSNH customers use only one-quarter of the power, should they pay a profit to the stockholders on the other 75% of the power? I just really think not. Frankly, I think the message is in the winds. The 25 New Hampshire firms are now asking electric rate reductions and we voted an anti-CWIP bill not allowing the rate payers to pay for construction works in progress. Frankly, I think that was one of the best votes cast in these chambers though Public Service supporters might disagree with me. I don't think we have a moral obligation to satisfy the stockholders of Public Service Company, really, that's not why we're here. Exeter-New Hampton Electric Company, where I live, has withdrawn itself from the Public Service base as has Concord Electric. You're going to see that occur more and what's going to happen if you don't take this appropriate action at this time is that the shrinking base, the rate payers are

going to pay more money. I wouldn't want to pick up the bill for Senator Stephen's restaurant if the rates are to double. We're facing decommissioning costs that are unknown that are to be tossed upon the rate payer. Frankly, I think this is the biggest political bill of the session. I think it's the most important bill that you'll ever have a right to cast a vote on on behalf of the elderly, single parents, homeowners, affordable housing or any thing else as the cost of energy and the cost of electricity and certainly there's a lot of business men and women in this room that when you see the BIA interested, when you see national corporations say look either you come down on these costs or we're going to move. I think a sad fact is that it's a good environment that's been created here for business but and I must credit Governor Sununu for having been a part of that healthy business environment, he is leading the charge that could lead to a regression in a very healthy business environment that we've enjoyed for the many years by the high cost of electricity. As you move from the sea coast, the concerns for evacuation and safety diminish but it's an economic problem. The little co-op in the north country in Conway, I think over 90% of their indebtedness is locked into Seabrook. I think that if we take the appropriate action now, I say we're going to stand up for the people that need it the most and not for Public Service Company. I think that's your obligation and I plead with you to listen to Senator Krasker, that as CWIP went, for the benefit of the consumer so, will this bill. Stop standing up as experts on the floor on behalf of a public utility.

SENATOR DUPONT: I'm a little bit discouraged to hear the analysis that Senator Preston, although I think highly of the Senator from the 23rd district, to bring the CWIP law into play in this debate because it's really another indication of good intentions that went wrong. We talk about the consumer in this body sometimes and under the premise of acting on behalf of the consumer when we only do half the job. The real issue here today, really what should be debated is the fact that not only just Seabrook but the very power producers that Senator Krasker and Senator Bond briefly mentioned, are somewhat of the problem. One of the things that we fail to talk about here today is what is their capacity made up of and I'm going to give you just a quick overview. At the present time, they are purchasing 134 megawatts of power from small power producers and, as Senator Bond indicated, that power at the present time is being bought sometimes in the range of 12-14 cents per kilowatt-hour. The latest figures that I've seen on that power is that it will add \$4.00 a month to the average residential users bill in the State of New Hampshire versus them being able to go out and buy power at market rates. So,

we can talk about passing this bill and saving the consumers of the State some money but, if they were really interested in saving money there'd be a provision in here to force Public Service not to have to buy this power. Because under the present time they are required by law to buy all the power that's produced in the State by the small power producers and we basically are subsidizing these producers to the tune of about 30 million dollars, somewhere between 30 and 40 million dollars to be more accurate. At the present time, there's an additional 40 megawatts under construction which will bring the total up to 174 and there is a proposed power plant in the the State that will bring that up to 240. I think what I'm trying to say is; yes, it's excess capacity but are we helping them to make that excess capacity by subsidizing small power producers selling power to consumers of the State at a rate that is not economical. The second thing is, you know we stand here and we talk about this excess capacity and yet at the same time, last night at ten o'clock at night, New Hampshire is importing power to help meet our electrical needs. We're importing it from places that have excess capacity and if every state in New England and if Hydro-Quebec had planned for what they need for power tomorrow, where would we be today? We would not have enough electrical generation to meet our needs in the State of New Hampshire. The last thing is, we stand here and we talk about Public Service as if a bankruptcy is nothing and it's not going to effect the State of New Hampshire and we're basically all very callous about how this ultimately is going to impact the State. If I was an industrial development person for the State of New Hampshire working on bringing a company into the State of New Hampshire, the last thing I'd want for a calling card is the stigma of a bankrupt power company as one of the benefits of moving into New Hampshire. Lastly, let's take a look at this bill on an equal playing field and I made the point earlier about requiring them to buy this excess power produced by the small power producers. Senator Krasker, if you want to bring a bill in and address excess capacity that took into consideration the impact of small power producers on their capacity requirements, then maybe we'd be able to take a look at this and say it has some merit, but I think until such time they should recognize the fact that they don't have total choice over what their capacity is at the present time. You can't very well point the finger at them and say you build too much capacity when, in fact, they are going to be having coming on line power in excess of what Seabrook excess capacity will ultimately be and that is capacity that they had no decision in whether or not it came on. So, I urge the Senate to vote down this piece of legislation. It's premature and re-

ally, at this point in time, does nothing to further improve the economic climate in the State of New Hampshire. It only makes a difficult situation worse.

SENATOR HOUNSELL: Senator Krasker, I told you prior to today's hearing and report that some things had come up, new information, and that I was not sure on how I was going to vote. I did listen, I listened to your excellent presentation. Senator Krasker, I was with you as we attempted to come to a position that was acceptable by all. In committee, I did vote for the amendment that appears in the calendar and yet I was uneasy in doing so because of a particular issue that Senator Dupont, I feel so correctly, addressed today and that's the issue of having Public Service, on one hand, have to buy electricity at an inflated rate and then, in effect by this, penalizing them based on that. Senator Krasker, I was just going to sit here and wait for the vote to be taken, but I feel that I have enough respect for you and this body and the people of the State of New Hampshire to tell you how I was going to vote prior to the roll call. It's with a lot of thought and rethinking that I tell you that I am unable to support my own committee's amendment for which I voted for in committee and I will be voting no on the motion to accept the amendment.

SENATOR KRASKER: I thank Senator Hounsell for his consideration. I certainly respect however he would vote, but because no one else has answered this point of the small power producers, I at least want something to go on the record because I consider this very, very diversionary. It's true that Public Service is required to purchase power from the small power producers. This is in accordance with national law and state law, there are small power producer acts and the reason for this is so that we have a diversified source of energy supply. There have been times, as you know, in New England when as many as six nuclear plants have been out of commission at the same time. What would we do if we didn't have alternative sources of energy? It's true that Public Service Company does have to buy from the small power producers, so do utilities in every state in this country for the purposes of diversification. Public Service happens to be in dire straights. I admit this, so it is affecting them, but they haven't been singled out as the only utility in the United States to do it. These are part of our state and national energy goals and I think they are very valid and in the end they protect all of us. Thank you.

Amendment failed.

Senator Dupont moved to substitute inexpedient to legislate.

Roll Call requested by Senator Preston

Seconded by Senator Hounsell

The following Senators voted yes: Bond, Hounsell, Freese, Hough, Dupont, Chandler, White, Charbonneau, Podles, Johnson, Torr and Delahunty.

The following voted no: Heath, Disnard, Roberge, Blaisdell, Pressly, Nelson, Stephen, Preston and Krasker.

12 Yeas

9 Nays

Motion adopted.

HB 561-FN, relative to provision of water supplies to victims of water supply contamination, reimbursement of the oil pollution control fund, and licensing of oil transporters. Without Recommendation. Senator Hounsell for the Committee.

Senator Hounsell moved inexpedient to legislate.

SENATOR HOUNSELL: This bill, HB 561, was a very important piece of legislation that started last session and Senator Johnson, who has been very concerned with this problem, as most of us have been, asked me earlier today what exactly has happened in regards to the provision that was in HB 561. Senator Johnson, in my attempt to refresh my own memory to the provision of 561, let me use recent history. We had a Senate bill, 211, which passed this chamber and was amended in the House and went to a committee of conference and on that committee of conference, on which you and I both served, we made sure that the provisions that would help the situations in Northwood, Meredith Center and the village of Lodgemere and Tilton that their immediate needs might be addressed. I'm not going to stand here and tell you, Senator Johnson that they've been solved. But, I think that we made headway into a very difficult problem. At the same time, we took SB 211 and we established a study committee and the study committee that we had met several times and were very involved in the whole idea of an underground storage tank revolving loan fund. In that, you start talking about all the problems of what happens if an underground storage tank leaked, I would urge anyone who could find the time, to read that report because, to me, serving on that committee and writing the final report was an eye opener. We're faced in this State with a potential threat of an oil tank letting go and really devastating a water supply, such

as what's happened in Northwood. The cost of cleaning one of those things up is astronomical. We just can't even fathom what it might take to do that. However, there were some recommendations that were made in that report that I think can be made in the process that we call these sessions. In particular, today we heard a bill which was SB 322 and we heard this in Development, Recreation and Environment Committee and this bill is relative to a petroleum pollution clean-up fund and it does, when the committee is ready to report it out and I hope favorably, will provide the mechanism for us to be able to address what happens if contamination occurs. For that reason, I think that 561, although important in '87, is dated in '88 as far as what it provides. I think we've gone beyond that; we understand what it was addressing, but I'm not sure that we need this as a vehicle. I think that more people have become involved and it is now heading in to a new area. I did have an amendment that came out of that study committee that I brought before the committee, however today I don't feel it's appropriate to consider that because it hasn't had a public hearing and I would hope that we could know that inexpedient to 561 isn't a turning of our back on the problem of making sure our water supplies are adequately protected nor that we're not derelict in continuing to solve the problem. So, I do ask that we support the motion of inexpedient, not to kill what is a vital job before us, but to use the vehicles that are out there now that are more current.

Adopted.

HB 436, relative to insurance coverage for home health care. Inexpedient to Legislate. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: This bill requires insurance to be offered to the home health care insured. In the committee hearing it was found that most were already covered and so the committee found this to be inexpedient to legislate.

SENATOR MCLANE: Senator Delahunty, is there another bill coming in from the House on this same subject?

SENATOR DELAHUNTY: If there is Senator, I'm not familiar with it. I haven't seen one yet.

SENATOR MCLANE: What companies did not provide the home health care.

SENATOR DELAHUNTY: After viewing the notes this morning, it was found that about 85-90% of the companies do provide it and they

didn't have any actual statistics to justify or name companies that did not. It was felt too, that there was also a problem with definition of defining the differences between the health care and the homemaker and what not and it was really not needed.

Adopted.

HB 687-FN, relative to eligibility for disability payments to injured workers. Ought to Pass with Amendment. Senator Bond for the Committee.

SENATOR BOND: This bill allows workers' compensation disability benefits to an injured worker for a new period of disability not later than 4 years after the date of denial or the last payment of compensation but, charges for medical or rehabilitation treatment, procedures, prescriptions or devices whichever is most recent.

The amendment, which you'll find on page 7, strikes prescriptions so that the ability to reinstitute a workers compensation claim for up to 4 years would not be extended by virtue of a prescription having been written during that 4 year period. The committee's recommendation is ought to pass with amendment.

SENATOR JOHNSON: Senator Bond, is this going to increase the cost on small businesses like Chet Born's Restaurant in Northwood?

SENATOR BOND: The only testimony that we had, Senator Johnson, on it was that it would not increase cost that in those few cases where there was a need to extend because of a recurrence of a workers comp.

SENATOR DUPONT: I've got some grave concerns about this bill and having had a brief opportunity to go over the bill and reflecting on the current situation in the State of Maine with workers' comp. I have enough concerns about this bill that it's my intention to oppose this bill. I recognize that the committee has spent a considerable amount of time working on the bill. I understand that there was not really some consensus in the committee as to the appropriate way to deal with this bill. I'm concerned for a number of reasons, the single most important is, I think, that it further adds to the burden of the businesses of the State and creates an air of uncertainty in how some of these cases are going to be handled. Perhaps there may be a specific situation that needs to be addressed, but I think that the bill really is open ended and it really leaves the door open and for that reason I urge my colleagues then not to support the committee report.

SENATOR NELSON: Senator Dupont, I would just ask you, it says that they may petition. The verb is may petition the labor commissioner relative to those things and they may petition for those charges. Is this enabling legislation sir, or is it mandated?

SENATOR DUPONT: Well, it is enabling Senator, but if you look at the workers' comp statutes, and being an employer I have to take a look at them once in a while. You will find that there are many may petition or may request or may have a hearing and that even further concerns me more.

SENATOR NELSON: I'm not clear, sir, when one has the ability simply to petition, how is that, in fact, going to hurt anybody?

SENATOR DUPONT: Senator, I guess what I'm saying is that I'm not clear on it either and I think the impact of the bill is something that is very nebulous as to how it's going to effect the current situation and I fail to get what I consider an answer to that and it leaves me to believe that I can go home tonight and sleep comfortably about this bill having not created a further problem in the system that already has some problems, so for that reason I can't support it.

SENATOR NELSON: Senator Bond, would you please address the fact that this says may and is enabling and do you have someone who worked on the bill that had the same concerns considering it is enabling legislation?

SENATOR BOND: I could say that I do have the concerns that Senator Dupont has. As to may, may is unlatching the door. Whether or not it is open is another issue.

SENATOR WHITE: The problem, as I see it, if you open this up even with may and it is permissive, the problem is that it allows anyone to come back into the system and as you know insurance companies when they set up their reserves they set them up based on the outstanding cases and possibly it could mean that if you had all these outstanding cases you would have an enormous amount of reserves to cover the potential cases that could come in. Therefore, it would really drive up the cost to the consumer because it would not be listed as an asset but rather a liability. So, you'd have money sitting in there as a liability which can drive up the rates. I think even though it is permissive, I concur with Senator Dupont that we don't know what pandora's box we're opening and I think at this point we don't want to just open it up for anyone to step in and it's just too open ended.

Amendment failed.

Senator Dupont moved to substitute inexpedient to legislate.

Motion adopted.

HB 697-FN, relative to the definition of "wages" for workers' compensation purposes. Inexpedient to Legislate. Senator Charbonneau for the Committee.

Adopted.

HB 231-FN, relative to updating master plans once every 5 years. Interim Study. Senator Johnson for the Committee.

Senator Johnson moved to lay HB 231-FN on the table.

Adopted.

HB 293-FN, restricting the travel of double trailers in cities and towns. (formerly: relative to foster family homes and making an appropriation therefor and establishing a committee on foster families) Interim Study. Senator Johnson for the Committee.

SENATOR JOHNSON: The Transportation committee held at least two hearings, during the interim, on this bill, and after all the dust had settled, I think it was the consensus of the Transportation committee that neither side made their case and therefore the committee is recommending interim study.

Adopted.

NOTICE

Senator Charbonneau wished to be recorded as an additional sponsor on CACR 29, relating to the general court providing that the general court shall meet biennially.

HOUSE MESSAGE

HOUSE REQUESTS CONCURRENCE WITH AMENDMENT

SB 147, relative to surety bonds.
(see House Journal for amendment)

Senator Pressly moved to concur:

Adopted.

Recess.

Out of Recess.

HOUSE MESSAGE

The House of Representatives will be ready to meet the Honorable Senate in Joint Convention at 6:45 p.m. for the purpose of receiving His Excellency the Governor, John H. Sununu, to hear any communication that he may be pleased to make.

Recess

Out of Recess

RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time and that when we adjourn, we adjourn until Thursday, January 14, 1988 at 1:00 p.m.

Adopted

LATE SESSION

Third Reading and Final Passage

HB 418, relative to mutual holding companies.

Senator Dupont moved to adjourn.

Adopted.

Adjournment

Thursday, January 14, 1988

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Almighty Father, we call upon You to open our eyes to the wonders of each new day! May we take advantage of each and every right opportunity presented to us! Bless us Lord, and our families which stand behind us.

Amen

Senator Podles led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

NOTICE

Listed are the additional sponsors on SB 277, prohibiting the hunting of mourning doves in New Hampshire.

Senators Stephen, Bond, Hounsell, Freese, Hough, Dupont, Chandler, Roberge, Blaisdell, Charbonneau, McLane, Podles, Johnson, Bartlett, St. Jean, Torr, Delahunty, Preston and Krasker.

HOUSE MESSAGE

The House of Representative will be ready to meet the Honorable Senate in Joint Convention for the purpose of hearing an address by the Secretary of Education, William Bennett, at 1:15 p.m.

INTRODUCTION OF SENATE BILLS

Senator Dupont offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bill numbered 354-FN shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committee.

Adopted.

First and Second Reading and Referral

SB 354-FN, establishing a Connecticut River bridge commission. (Senator Disnard of Dist. 8; Senator Blaisdell of Dist. 10; Senator Bond of Dist. 1; Senator Hough of Dist. 5; Senator Hounsell of Dist. 2; Rep. Burns of Coos Dist. 5; Rep. Chambers of Grafton Dist. 12; Rep. Rodeschin of Sullivan Dist. 2; Rep. Schotanus of Sullivan Dist. 1 - To Interstate Cooperation)

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

Senator Dupont offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 12 through 627-FN shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 12, recodifying the workers' compensation law. (Insurance)

HB 252-FN, relative to the rate of the business profits tax. (Ways and Means)

HB 324-FN-A, establishing a committee to study development issues and their impact on the state environment and its resources. (Development, Recreation and Environment)

HB 330-FN-A, relative to an exception to the real estate transfer tax. (Ways and Means)

HB 331-FN-A, relative to filing returns under the interest and dividends tax. (Ways and Means)

HB 401-FN, relative to video tape depositions. (Judiciary)

HB 461, establishing a committee to study the potential deregulation and vertical disintegration of the electric utility industry. (Internal Affairs)

HB 467-FN, establishing a committee to study the allocation of funds and costs in the Tilton and Northfield union school district. (Education)

HB 537-FN, relative to regulation of the practice of nursing. (Public Institutions, Health and Human Services)

HB 546-FN, relative to the times for opening and closing the polls in statewide elections. (Executive Departments)

HB 551-FN, establishing a study committee relative to computer-based public records. (Judiciary)

HB 627-FN, to provide a loss carry forward under the business profits tax and relative to partnership and proprietorship deductions for compensation. (Ways and Means)

COMMITTEE REPORTS

SB 290, relative to expenditures of funds from the highway surplus account. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR: The bill basically gives the legislature control over the highway surplus fund. The amendment affords the Department of Transportation the opportunity to go in to the highway surplus funds if, in case, there is an emergency via the route of the fiscal committee and approval of the Governor and Council.

SENATOR HEATH: I didn't hear everything you said because of the noise in the Chambers, but there's a concern from what I did hear. How does this fit in with the court case and the constitutionally provision that there would be no legislative vetos and that kind of a thing?

SENATOR TORR: In essence, it is not a legislative veto. That money, basically, now is just sitting there and the Department of Transportation has the ability to go to the Governor and Council for approval for expenditure of it without the legislature never having any approval. The only thing that does happen in that process is, those persons serving on the fiscal committee receive it as information only. This way it's going to have be an appropriation for it to be expended, unless there is a true emergency, then it would be addressed both by the fiscal committee and the Governor and Council.

SENATOR HEATH: When you move it back in to legislative realm, I don't see a constitutional question there, because it sort of becomes non-lapsing. I guess what my constitutional question is, if within the legislature it doesn't have to go before the full legislature at any point, then aren't you setting up a quasi executive branch that you could avoid by bring it back through the whole legislative process?

SENATOR TORR: If I'm understanding you correctly, basically this money would be traveling like any money. It would go through the appropriating process, which is constitutional correct. At present, it hasn't been going through that process. It's been by-passing the system.

SENATOR HEATH: If it goes through the fiscal committee how does it then go through the rest of the legislative process?

SENATOR TORR: This would only be done in the instance of an emergency. I think the fiscal committee has become too lenient in their recent actions, not only in this area, which they really don't have any actions that take place, but in areas of requests from the different departments.

SENATOR HEATH: Would you believe, I don't mind rendering unto Caesar what is Caesar's and I think the legislature's role is certainly appropriate to appropriate funds, but I don't want to render under Jake what is Caesar's, had Jake being a sort of quasi executive branch within the legislature in the name of the fiscal committee, if it doesn't go back through the legislative process. That's my reservation.

SENATOR TORR: I certainly believe that.

SENATOR NELSON: Senator Torr, what's happening now, for example, if the highway department needed extra funds from the highway surplus? What happens now that you are required to have this bill?

SENATOR TORR: It's not a matter of appropriation at this point in time. They make the request to the Governor and Council and that transition of that request, as information to the fiscal committee, that is given out as information and the Governor and Council acts on it. There's no appropriating process taking place. Which this accounts for, the appropriation has to take place unless there is a true emergency.

Amendment to SB 290

Amend the bill by replacing all after the enacting clause with the following:

1 Highway Surplus Account. RSA 228:12 is repealed and reenacted to read as follows:

228:12 Transfers from Highway Surplus Account. If the expenditure of additional funds over budget estimates is necessary for the proper functioning of the department of transportation, the department may request with prior approval of the legislative fiscal committee, that the governor and council authorize the transfer of funds from the highway surplus account for highway purposes.

2 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted. Ordered to Third Reading.

SB 296-A, relative to the construction of regional vocational education centers and making an appropriation therefor. Ought to Pass. Senator Torr for the Committee.

SENATOR TORR: What this bill does is increase the bonded authorization by six million dollars for construction of regional vocational schools. What happened, to give you some historical sequences to this event, back in 1985 the Department of Education gave incorrect figures for legislation at that point in time. Therefore, at this time, there is a shortfall and that shortfall occurs in the areas of Rochester, Dover and Somersworth in their efforts to construct vocational education systems and there has been a cooperative effort between those three communities to provide education to approximately 1500 students in the vocational programs. Those programs are offerings and locations based on interest and employment needs. An effort has been made to meet the needs of the majority of those persons within their home schools, but the balance that can not meet those needs are met in the cooperative school systems. Thank you.

SENATOR JOHNSON: Senator Torr, just for my information, will this appropriation basically complete the capital funding for the 20 center program now?

SENATOR TORR: No, it won't. There will be additional requests in the future.

Adopted. Ordered to Third Reading.

SB 247-FN-A, relative to phase II of restoration of the old state house and making an appropriation therefor. Ought to Pass with Amendment. Senator Torr for the Committee.

Senator Torr moved to recommit.

Adopted.

SB 298-A, relative to student housing at the New Hampshire technical institute and making an appropriation therefor. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: You will find the amendment on page 9 of today's calendar. Basically, what the amendment does is it lowers the expense from \$4,216,000.00 to \$3,467,000.00, and I'll go into the rest of the amendment later. The bill actually sets up a new student dorm over at the tech school and it would be done by revenue bonds over a

period of 30 years. The cost to the students will be approximately \$279.00 per semester. The reason we changed it in the bill, from a 20 year bond to a 30 year bond, was because the cost would then decrease so that it would be in line with the cost at both UNH and Plymouth. As you know, this is the only vocational school that has housing with it and it's the only technical institute we have in the State. So, that they do have housing, they have run out of affordable housing in the State of New Hampshire and this will, as I said, be paid out of revenue bonds. The last amendment we made in the bill was to make it effective upon passage, so they could take advantage of the summer construction season.

SENATOR CHARBONNEAU: Senator White, is this affordable housing?

SENATOR WHITE: Yes.

SENATOR DISNARD: Senator White, did your committee look into the aspects of the private industry constructing this and renting it out and the cost, and all those aspects?

SENATOR WHITE: The committee did not, but the commission did. They've been looking for several years trying to get private industry to come in and do this. They could not get private industry to come in and do it. Therefore, it's been planned for several years and no one in the private business would do it so, this is why we're doing it this way.

Amendment to SB 298-A

Amend the bill by replacing sections 1 and 2 with the following:

1 Appropriation. There is appropriated the sum of \$3,467,000 for the biennium ending June 30, 1989, to the department of postsecondary vocational-technical education for the purpose of constructing, furnishing, and equipping a student dormitory at the New Hampshire technical institute's campus in Concord. This appropriation shall be nonlapsing and in addition to any other sums appropriated to said department.

2 Bonds Authorized. To provide funds for the appropriation made in section 1 of this act, the state treasurer is authorized to borrow upon the credit of the state not exceeding \$3,467,000, and may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A, except that, notwithstanding the provisions of RSA 6-A:2, such bonds shall have a maturity of 30 years from the date of issue.

Amend the bill by replacing section 4 with the following:

4 Effective Date. This shall take effect upon its passage.

Amendment adopted. Ordered to Third Reading.

Recess for Joint Convention.

Out of Recess.

COMMITTEE REPORTS

SB 308-FN, relative to motor vehicle registration fees to be used for highway and bridge construction in areas identified by the emissions control testing program and requiring inspection decals for motor vehicle registration in such areas. Inexpedient to Legislate. Senator Hounsell for the Committee.

SENATOR HOUNSELL: The committee held its hearing on this bill and we felt that this bill, although the sponsor had a good idea in what was needed, and that the bottom line being to come up with some sort of means to address the shortfall and federal money for bridges, and also to point at the fact that there is a certain bridge in Nashua that needs to have attention, and that it is under a sanction of the EPA. After hearing this and commending Senator Pressly for an innovative idea, we felt that this bill would not do it at this time, that the fee imposed would not be acceptable to the people of the State of New Hampshire. We believe, however, that within the too near future this will probably have to be addressed and we're hoping that the commissioner of Transportation will be able to sit down and work out some ideas. But, we urge the Senate to move this inexpedient, at this time.

Adopted.

SR 6, relative to aid to the Soviet Union and other communist countries. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: SR 6 merely is a resolution that directs the Congress and President that they should have the authority to stop all loans, credits and rescheduling of debts with communist nations. It goes on to say that, basically, we are being taxed the amount of \$300 million annually to defend our nation against the communist military and that we shouldn't basically be supporting this communist military in another fashion.

Adopted.

Senator McLane wished to be recorded as opposed to SR 6.

CACR 22, relating to meeting of the General Court providing that the General Court shall meet in triennial sessions and each Representative and Senator shall be elected to 3-year terms of office. Inexpedient to Legislate. Senator Dupont for the Committee.

SENATOR DUPONT: This was a bill introduced by Senator Chandler that would allow the Senate and the General Court to meet in triennial sessions. Basically, as a result of CACR 29 coming in, which deals with going back to biennial sessions, the committee voted to make this bill inexpedient to legislate.

SENATOR HOUNSELL: Senator, I was thinking of a floor amendment and I was wondering what you might think of this idea. How about if we amended this that the Senate and the Representatives shall be elected every two years but we shall meet every three years?

SENATOR DUPONT: I think I'd like to defer to Senator St. Jean on that one because it was supposed to have been his report, Senator.

SENATOR HOUNSELL: As I was reviewing this, this morning, a former first lady of the State of New Hampshire pointed out to me that that might be a good idea and I got thinking about it and I thought that it might be. Just think about how wonderful that would be; get elected every two years but meet every three years. Thank you.

Adopted.

CACR 29, meetings of the General Court providing that the General Court shall meet biennially. Ought to Pass. Senator Preston for the Committee.

SENATOR PRESTON: CACR 29 is quite simple, I think we all understand it. There are some 18 to 19 Senate sponsors on this piece of legislation. It would allow the public to make a determination whether they wanted to revert back to biennially sessions, it would be placed on the ballots next November. We've heard the arguments for and against, I'm sure. I am convinced that the annual sessions haven't lead us to achieve any more, they've cost an excessive amount of money. As one government official said, you're bringing some State government operations to their knees, the directors and their key people are constantly responding to the politicians during

the interim sessions. We're going to lose some good people, our citizen legislature will change, I guarantee you, you're not going to have a segment of the population who now make a sacrifice to serve, you're going to lose those people. I say this to you, that we're asking the people if they want to reconsider their action. I see nothing wrong with that and I respectfully request your support.

SENATOR BLAISDELL: I have just one word to say to Senator Preston, Mr. President, and it's bazonka.

SENATOR HOUGH: Again, I rise in opposition to this CACR. It seems to have been one of these subjects that comes before us each time that we meet. I am diametrically opposed to this, as I have been in the past. It is no surprise to you that the people such as myself and Senator Blaisdell, Senator McLane and others have opposed it and will continue to oppose it.

I think the issue really boils down to this, the people have ratified an amendment to our constitution that allows us to meet on an annual basis. I think that what they intended to do, when they did it, also entails appropriating money on an annual basis. But nonetheless, our first experience, the first year of our first annual sessions, we went through January to the last day of June and I think the history would show that we came back the next year and met almost as long and I think that the public could be justified in criticizing the way that we conducted our business.

A year ago we met for the second biennium, under annual sessions, and I think that the leadership in both the House and the Senate and the members being sensitive to the first go around were committed to a degree of restraint, a degree of responsibility and, a degree of acting in the best interest of the people. For the first time in many years we set our agenda, conducted ourselves properly and adjourned in a timely fashion, and now we are in the second year and I think that to a person in this room and on the other side of the wall, we are all committed to meeting, addressing those subjects that need critical attention and we have set our calendar and we mean to stick to it and we will be out again in a timely fashion, having met the needs of the people. I guess a year from now, as we go into the third biennium, we will further be more responsive and more disciplined and we will show that annual sessions can and do work. I think we should be proud of the accomplishments that we have made, we are headed in the right direction and we can demonstrate to the people what the amendment that they ratified means and

they will end up having confidence in the process of which we are members. These are the remarks I wish to make on this subject. I think to pass this CACR, at this time, is contrary to the good intentions that all of use are committed to in regard to conducting the people's business.

SENATOR DISNARD: I'm a fly fisherman. I know if I go to a pool to fish for flies and eighteen flies won't bite, I don't stand much of a chance. But, however, I wish to speak on behalf of the people of this State and Senator Hough, and I don't know what word Senator Blaisdell used, but it must be good. The reason I say that is, I recognize there are many members here who run businesses and professions and loose money by coming here to work. I understand that. But, I have the same problem with this as I do with the bill coming in on interstate banking. For example, I supported that bill, but it goes against my grain before we give something an opportunity to work we want to change it. This bill was probably written as soon as the last session ended, because there were many problems with the last session. We are told as members of this body, we must have everything on the floor of the Senate by the end of January. I don't object to that. I'm just trying to say that we are trying to fix it. Let's try to fix it, let's be fair to the public before we change it.

SENATOR JOHNSON: I rise in favor of this resolution, which will give voters of New Hampshire an opportunity to affirm or change their 1984 decision, which permitted annual sessions of the General Court. The fair question to be asked now is this; does the public, especially the taxpayers, benefit from annual sessions? My answer is an unequivocal-no. But, there is one group that does indeed benefit from annual sessions. We now see almost as many orange tags as we see legislative name tags, and that does not bode well for the public interest. Senator Hough talked about the fact that the public has ratified this amendment. Yes, indeed, we all know that, but we also know that the public ratified an amendment establishing prohibition. We also know that that was changed. My belief and my conviction about this is that the legislature has been unable to demonstrate the kind of restraint that Senator Hough and others might wish for and myself included. The other morning in Senate Transportation, we spent almost as much time on two bills, that will be reported out as inexpedient to legislate, had absolutely no business being introduced in this legislature, in my opinion. We spent almost as much time on that as we spent on SB 334, an important education bill that we heard yesterday morning, and in spite of the fact that Senator Hough did a fine job of chairing that committee, in

my opinion, we rushed through that public hearing, we gave that bill, that major policy bill, almost as much time as we did to these two railroad bills. Then to bring it back on a personal level, after the Transportation Committee hearing, which the secretary that I share with Senator McLane and Senator Nelson, who by the way does an excellent job in dealing with all of these people and all of the demands there, she went to work, busily, typing up the minutes and the report of these two bills while I sat there trying to get out some important correspondence to my constituents. I don't believe this annual session business is working, I gave it a fair chance, in my opinion, I voted against Senator Chandler's resolution in the first instance. When I thought it was premature, as Senator Disnard does now, but I urge the Senate to vote overwhelmingly in favor of this resolution and I would hope unanimously.

SENATOR BLAISDELL: Very elegantly, you appeared before Senate Finance on a very important piece of legislation, you filled the Senate Finance room with police officers and police chiefs from all over the State of New Hampshire. Do you feel Senator, after the testimony that you gave me this morning, that this bill you presented to me this morning, could wait another year or two years?

SENATOR JOHNSON: Unfortunately, I should have introduced that bill last year, Senator Blaisdell, but that bill is really the only important bill that I'm a party to. We've waited for a long time, I don't want to wait now that we do have an opportunity to address this but I don't think that's really the problem.

SENATOR BLAISDELL: Senator Johnson, do you believe that after listening to that testimony this morning and the loss of life that's happening on the roads of the State of New Hampshire, because we don't have proper breathalizers and DWI laws in this State, that it would be worth coming in this legislature to present a bill of your type, which I commend you for, just to save just one persons life? Wouldn't it be worth it to be in this legislature to do that?

SENATOR JOHNSON: Yes. We do have the mechanisms for special sessions and if that were necessary, I think we would all be willing to come in for that kind of legislation, Senator Blaisdell, and I take your comments to mean that the Senate Finance Committee will probably give that a timely and favorable report, which I will appreciate.

SENATOR HOUNSELL: 1985 session was my first and every year we discuss this. The issue always comes around that no, we've got to

give it a chance, we've got to give it a chance. Well, I'm telling you, we've given it a chance and we've given it good chances. I think that it's fair to say that every member of this body and every member on the other side has been very diligent in their sincere attempt to respond to the mandate of the constitution to annual sessions. I'm certainly very proud that the majority party and the minority party of this body have worked to make this session, I think, the most efficient but, I don't think it can get any better and I don't think it's answering the problem. The problem is, how are you going to continue to find people from the citizenry to drop what they're doing to come here to serve? Something that's very special and unique to New Hampshire. The question isn't whether or not we should go back to annual sessions however. The question is whether or not we entrust the people with the wisdom to reconsider it and say again, yes or no. I would point out history to you. They were asked six times whether we should go to annual sessions before they finally said yes. I see nothing wrong and nothing inappropriate with asking them one more time, are you sure this is what you wanted us to do? Look at the history, everyone has done their best. Look at what's happened, consider the results and do you want us to meet annually or biennially? This is merely to put it on the ballot so that the people, by their precious vote, can determine the question. It is irresponsible for us to deny them that opportunity.

SENATOR BLAISDELL: Senator Hounsell, you mentioned six times that it went before the people of the State of New Hampshire. Five times it went before the people of the State of New Hampshire and it got over 60% of the vote. Is that right Senator Hounsell?

SENATOR HOUNSELL: If you say so Senator, I'm sure you know what you're talking about.

SENATOR BLAISDELL: The last time, it was 66 and two-thirds and it passed, right?

SENATOR HOUNSELL: That's right.

SENATOR BLAISDELL: I just wanted to be sure that we gave them six times, most of the majority of the people of this State, five times over 60% of them said yes and then finally we got the constitutional provision that 66 and two-thirds would pass it. But, five times we did it and it was over 60% and then once over 66.

SENATOR HOUNSELL: Then I see that there should be no fear, however Senator, that you, who support annual session, should have any fear that that vote would be turned around because it would

require two-thirds of the people to change their mind. I think that you should be gracious enough sir to allow them the opportunity to decide once and for all this question.

SENATOR MCLANE: I wasn't going to speak on this, because like Senator Disnard, I can count, in fact I even know that it's 19 not 18 because Senator Charbonneau was not listed on the bill but also means to support it. I think Senator Hounsell has brought up an important point. I have been in the New Hampshire legislature since 1969, almost 20 years, and in that time only one session went through that we did not have a special session. The reason, as Senator Blaisdell has pointed out, is because important considerations come up that must be addressed, but let me tell you a very important difference. Is it as Senator Johnson has given us an eloquent discussion of which bills he thinks are important, breathalizers are, trains aren't. I'm not sure about that decision, but let me tell you about who makes the decision about what is important in the special session, the Governor. And what this body would be doing is saying, we don't want to come back and legislate on the things that we want to legislate about, we'll wait until the Governor decides because really, practically, the only person who can call a special session is the Governor. Never in the 20 years that I have served, has the legislature called itself back when it hasn't been the Governor that has initiated that process. So, I think what you're doing is handing to a Governor the decision about whether railroads or breathalizers are more important.

SENATOR HOUNSELL: Given that, you don't entrust the Governor with that type of determination, and I'm not sure that you're incorrect in that totally, why would you not entrust the people of the State of New Hampshire with the determination of the disposition with this question?

SENATOR MCLANE: Because I have trusted them and I think that Senator Blaisdell gave the question very clearly. Five times, 60% gave their approval, the sixth time 67% and I just feel that it's because people got elected to this job, they knew that they were annual sessions, we're now in a situation where everyone who ran this time knew it was annual sessions. I feel that the people have spoken.

SENATOR HEATH: I want to ask you if you think this is an appropriate analogy; if you purchase something by mail order, once it was

delivered and you got a chance to look at it, wouldn't you want an option to opt out if it wasn't up to what you thought you were purchasing?

SENATOR MCLANE: I don't equate the people to Sears and Roebuck. I feel that the people have spoken and they knew what they were buying and they still do. They come in here in droves. You have seven hundred bills and you can't tell me that the legislators all thought up these ideas. I've put in several bills for my constituents. I believe that the people still do want annual sessions.

SENATOR HEATH: Now that people have had a chance to look at the product, shouldn't they, though, have a chance to opt out if they don't like what we deliver?

SENATOR MCLANE: I'm saying two things. I'm saying the people like the product and they've had their chance. They have voted overwhelmingly to endorse annual sessions and it's time for us to make them work and I believe that we're trying to.

SENATOR FREESE: Senator McLane, do you really believe that the number of Senators that are sponsoring this bill would be sponsoring this bill if we didn't feel and didn't know that our constituency really wants another opportunity to vote on this question?

SENATOR MCLANE: I believe that obviously all the 19 people are very sincere in their beliefs, but most of the arguments that I've heard here today are; 1. that the legislation we're considering isn't important; 2. that everyone is too hard worked and shouldn't have to come in and can't tend to their own business; and 3. a lot of snide remarks about lobbyists, as though it were the lobbyists that were the most unimportant part of the legislative process. I've yet to hear anyone come in with clear evidence that the people themselves have changed their minds. The Senate has changed their minds, but I guess I have not heard from any one in Concord who told me that they didn't like annual sessions. Perhaps you have.

SENATOR FREESE: Would you believe that my experience is totally opposite from yours, in my constituency?

SENATOR MCLANE: I would believe that and I respect that reason probably more than the others that I have heard.

SENATOR NELSON: Senator McLane, do you think if we were to continue on with biennial sessions that we should review the fact

that we're dealing with an annual budget and as a result spend enormous times and worry about how to get money for the second term?

SENATOR MCLANE: I believe that we are, in this session, going to have a supplemental budget. I think that we've had the battle about having single bills versus the supplemental budget, in that first year that we had annual sessions. The Senate lost that argument and now I consider that the Senate now accepts the fact that there's going to be a supplemental budget coming over. I'll bet you that everything in that supplemental budget is important and important to your constituents as well as mine.

SENATOR NELSON: Senator Blaisdell, in states that have annual sessions, do you know if, in fact, those states have annual budgets and annual sessions or they also have a biennial session with an annual budget?

SENATOR BLAISDELL: Most of them have annual budgets, as you know Senator.

SENATOR NELSON: Senator, given that you are the chairman of the money committee, if you will, the Senate Finance, do you think that annual sessions might work better if, in fact, we had an annual budget?

SENATOR BLAISDELL: That's no secret, Senator. I've always said that. That was the reason that I supported annual sessions because that's what I thought we'd be looking at. But, I also supported annual sessions to be able to put in emergency pieces of legislation. I don't think annual sessions should have seven hundred bills in them. I really don't believe that.

SENATOR NELSON: Senator Blaisdell, how do you feel the sessions work with annual sessions with that biennial budget, do you think it's accomplishing what it should be accomplishing?

SENATOR BLAISDELL: I think so Senator, I really do.

Roll Call requested by Senator Hough.
Seconded by Senator Blaisdell.

The following Senators voted yes: Hounsell, Heath, Freese, Dupont, Chandler, Roberge, White, Nelson, Charbonneau, Podles, Johnson, Stephen, Bartlett, St. Jean, Torr, Delahunty, Preston and Krasker.

The following voted no: Bond, Hough, Disnard, Blaisdell, Pressly and McLane.

18 yeas

6 nays

Adopted. Ordered to Third Reading.

SB 297-FN-A, establishing adult in-home care services for certain persons and making an appropriation therefor. Ought to Pass. Senator McLane for the Committee.

SENATOR MCLANE: This bill is about home health care. It is obvious from those who listened through the hearing, that home health care is a health care cost containment method that is effective. It costs \$62 a day on an average to keep someone in a nursing home, and the average cost for home health care in New Hampshire is \$22. This bill has been made necessary by a federal law which has said, that those people who provide home health care must receive benefits, FICA benefits. For that reason, the Division of Health and Human Services has now decided that all home health care should be contracted out to agencies, such as visiting nurse. This will mean that for 475 individuals who have been receiving home health care contracted for by the State of New Hampshire, those individuals will now be under a more general and broad contract. That contractor will have to pay FICA benefits and there will be other administrative costs. This bill, before you, merely provides that extra cost so that home health care can continue to be of the quality it has been in New Hampshire.

Adopted. Referred to Finance (Rule #24).

SB 331-FN, relative to payment for forensic medical examinations of sexual assault victims. Ought to Pass with Amendment. Senator Krasker for the Committee.

SENATOR KRASKER: The amendment is on page 10. There is only one crime in New Hampshire for which the victim has to have an examination that's going to provide the evidence for the crime. The purpose of this bill is to have the State assume legitimate cost of the exam that's providing the evidence. This bill was supported by the attorney general's office and by all the county attorney's.

The amendments, first of all, add an appropriation of \$30,000; \$20,000 will be for reimbursing for the medical examination. \$10,000 will go toward the manufacture of the kits, the standardized kits,

and we did see one in our committee that is used to gather the evidence and for training of hospital officials and how to use them properly. It's very, very important that the protocol that's going to be developed is followed or else the evidence isn't valid in court.

The other change in the bill provides for a direct payment by the attorney general's office. The bill, as it was originally prepared, would have had the county attorney's office pay and then they would have had to be reimbursed by the State. It was the judgment of the attorney general's office that it would just be much, much more efficient if the payment were made directly by the State of New Hampshire. I would urge your adoption.

Amendment to SB 331-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to payment for forensic medical examinations of
sexual assault victims, a standardized rape protocol,
and making a supplemental appropriation
for rape victim services.

Amend the bill by replacing all after the enacting clause with the following:

1 New Sections; Victim of Alleged Sexual Offense; Payment for Forensic Medical Examinations; Standardized Rape Protocol. Amend RSA 21-M by inserting after section 8-b the following new sections:

21-M:8-c Victim of Alleged Sexual Offense. If a physician or a hospital provides any physical examination of a victim of an alleged sexual offense to gather information and evidence of the alleged crime, these services shall be provided without charge to the individual. Upon submission of appropriate documentation, the physician or hospital shall be reimbursed for the cost of such examination by the department of justice to the extent such costs are not the responsibility of a third party under a health insurance policy or similar third party obligation. The bill for the medical examination of a sexual assault victim shall not be sent or given to the victim or the family of the victim. The privacy of the victim shall be maintained to the extent possible during third party billings. Billing forms shall be subject to the same principles of confidentiality applicable to any other medical record under RSA 151:13. Where such forms are released

for statistical or accounting services, all personal identifying information shall be deleted from the forms prior to release.

21-M:8-d Standardized Rape Protocol and Kit. The department of justice shall adopt, pursuant to RSA 541-A, and implement rules establishing a standardized rape protocol and kit to be used by all physicians or hospitals in this state when providing physical examinations of victims of alleged sexual offenses.

2 Supplemental Appropriation; Department of Justice. In addition to any other sums appropriated to the division of public protection, department of justice, the sum of \$30,000 is hereby appropriated for the fiscal year ending June 30, 1989, for rape victim services. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

3 Effective Date. This act shall take effect July 1, 1988.

Amendment adopted. Referred to Finance (Rule #24)

SB 325-FN, relative to providing support to families coping with a severely disabled child or young family member, using funds already appropriated. Ought to Pass. Senator Bond for the Committee.

SENATOR BOND: SB 325 does not require any additional funding and requires that the Division of Mental Health, Developmental Services spend not less than \$50,000 of its existing appropriation, on two model support programs to provide support to enhance a family's ability to care for a severely disabled child. The background for this were circumstances, which you are aware, in which a family had a very severe situation and the State was not in a position to provide the support that the family needed. It's the sponsors intent that the Division experiment in developing support programs and report back to the legislature on the projects that they put together. The committee urges your support of SB 325.

Adopted. Ordered to Third Reading.

SB 251, requiring a caboose on certain railroad trains. Inexpedient to Legislate. Senator Preston for the Committee.

SENATOR PRESTON: This bill was presented to us by a Senator on behalf of a citizen from Northfield who felt as those cabooses were a safety requirement on trains. The Department of Transportation said that they have the rulemaking authority to put cabooses on trains they think necessary. This would be a detriment to some of the small lines that we have in the State that are maybe one or two line cars making two deliveries a week and we recommend inexpedient to legislate.

Adopted.

SB 252-FN, providing for minimum levels of service over the railroads of the state. Inexpedient to Legislate. Senator Heath for the Committee.

SENATOR HEATH: This bill had an enormous price tag on it and probably the fiscal assessment on the back, if you wanted to read it, is way under estimated. The other problem that we found with it is if you mandate this on the railroads, what they'll do is leave the State in a more rapid fashion than they have. Therefore, the committee felt that this was absolutely an unworkable solution. We'd all like more rail service but, if you mandate it you're not going to get it; you're going to get a retreat from the railroads from the State.

SENATOR JOHNSON: I rise in support of the committee recommendation and contrary to what the Senator from the 15th said about the Senator from the 17th, I am a strong supporter of railroads in New Hampshire and I'd like to remind this body that, this body and the entire legislature has a very good record of supporting the railroads in New Hampshire, when it was necessary, and we've also recognized the importance of retaining rights-of-way, should railroads be forced to abandoned rights-of ways. I think one thing that we might remember that the Senate Transportation committee did perhaps the last session or two sessions ago, they prevented somebody from putting in an amendment to a bill that would allow a shipper to pay their fair share in gravel instead of money.

Adopted.

SB 264, prohibiting vehicles weighing more than a ton from traveling on old Route 104 in the town of Alexandria. Inexpedient to Legislate. Senator Preston for the Committee.

Senator Preston moved to lay SB 264 on the table.

Adopted.

SB 353-FN, relative to motor vehicle plates for organizational vehicles. Ought to Pass. Senator Heath for the Committee.

SENATOR HEATH: This bill basically corrects an oversight. It's a little silly. We have handicapped parking spots throughout the State now and we allow handicapped people to have a plate that indicates it. But if you have a bus load of handicapped people from an organi-

zation, under the present law, just because of a little glitch, they can't technically use that spot. So, they might have five people with walking disabilities in a van as opposed to one in a private car. This includes those vehicles that are very frequently carrying people with walking disabilities and we would urge you to pass this.

Adopted. Ordered to Third Reading.

TAKEN FROM THE TABLE

Senator Dupont moved to take HB 532 from the table.

Adopted.

HB 532, allowing real estate brokers to establish interest-bearing trust accounts. Ought to Pass with Amendment. Senator Dupont for the Committee.

Senator Dupont moved inexpedient to legislate on the committee amendment.

Motion adopted.

Senator Dupont offered a floor amendment.

SENATOR DUPONT: Last session we had a bill before the Senate Banks committee that allowed for the establishment of interest-bearing trust accounts for broker deposits. When people go to purchase a house obviously they give the real estate broker a deposit on the house and it then goes into a noninterest bearing account. What the attorneys in the State did a number of years ago, was establish an account to put those monies into an interest-bearing account that they hold in escrow and donations are made, and I'm not sure exactly where their monies go. Representative Hager, who's a sponsor of the bill, came up with an idea of doing this to the real estate deposit.

The original bill would have allowed the broker to designate a charity of his choosing for the money to go to. At the time we felt because of the issue of establishing separate for separate charities for tax purposes, that it would be too cumbersome. We re-referred it and as a result of all of the discussion about the affordable housing issue in the State of New Hampshire, the second portion of her bill had dealt with the affordable housing issue. So basically, what we've done, and the real intent here is to get the bill passed and possibly it's going to end up in a committee of conference, until the debate on

affordable housing has taken place in this legislature, so we'd have a better idea of where the most appropriate place's for these monies to go. What you have in front of you is a mechanism that allows the establishment of the accounts, however it doesn't designate who the monies will be used by. I know that probably isn't the most prudent thing to do, but I have assurances that it will receive further work in the committee of conference. I think it deserves to be established for the sake of at least having a vehicle that we can use in the intent that's certainly in this legislation.

SENATOR NELSON: Senator Dupont, I would ask you, whose money is this? To whom does the money belong that we are going to put it into an account?

SENATOR DUPONT: At the present time Senator, if I was going to go out and buy a house today, the real estate broker would ask for a deposit basically on that house and that is the money that we're talking about. At the present time, it goes into a noninterest-bearing account and the banks earn the use of that money for interest purposes.

SENATOR NELSON: The money is given by either the seller or the buyer and the money goes in to an account until the individual actually purchases the home. Is that correct?

SENATOR DUPONT: It would be the buyer.

SENATOR NELSON: There's money that a buyer gives that goes into an account, correct?

SENATOR DUPONT: That's correct.

SENATOR NELSON: It's in a non interest-bearing account?

SENATOR DUPONT: That is by law.

SENATOR NELSON: Thank you. We are now taking that same buyer's money, putting that buyer's money into an account, that money will draw interest. It is the buyers money, is it not, sir?

SENATOR DUPONT: That is correct.

SENATOR NELSON: The State will then take the buyer's interest and put it into another account?

SENATOR DUPONT: We haven't established that it is going to be the State that's going to do that. I would also point that the legislature does not mandate that a broker do that. It is permissive legislation; it does not mandate that that happen.

SENATOR NELSON: Can the State actually take the money that belongs to someone else, put it in an interest-bearing account and give that money somewhere else?

SENATOR DUPONT: If the person says no, I don't want that to happen then it doesn't happen. But, most people, and believe me I've bought a lot of property and I never had a broker say to me, you can elect to get interest on this or you can elect to not put it into my account. I guess it would be an educational process for the brokers to give the person the opportunity, if they so desire, to have their money go into this account. If they don't, they don't have to.

SENATOR HOUNSELL: I've been listening to this and reading the bill earlier, I rise in opposition to the amendment and I do so for the following reasons. First of all, if anyone wants to contribute from their bounty, any type of money, I'm sure that they can write a check to the Treasurer of New Hampshire. It might be hard to get it accepted, I don't know, but I'm sure they would be able to. Basically, there's really two main reasons why I can't support this, at this time. First, we haven't identified affordable housing, at least in terms that I can understand. But second, and most of all, I think that to establish an account whereby it's possible to put interest into it, would the State then be in a position to delay the final transaction in the release of that money that's gaining interest? I think there's a lot of problems, Senator Dupont, but I do commend you on taking the initiative to address the issue that you are trying to tie with this and that is the affordable housing issue. But I don't think this bill even comes close. Thank you.

SENATOR PRESSLY: I rise to commend the authors, the people who came up with this idea. Just seeing it for the first time today, I think it's exciting, it's thrilling that people are looking for positive solutions. It's a small step, but we've said it's going to take many, many small efforts that are going to focus on one of the problems that faces our State. The objections that have been raised, of course are there. Any time you have something new it takes a while for it to be understood and to be worked out. My understanding is that that is money that can not go to anyone. This is an opportunity to take money that is not being used and to put it towards something truly worthwhile. Congratulations to the authors and sponsors.

SENATOR FREESE: Senator Dupont, if I were interested in a piece of property and I was asked to put a deposit down, and wanted to make special arrangements with you that, if I was approved, you had no problem, you'd have the interest and could do what you wanted with it. If I wasn't able to finance that for some reason or other, or I was refused and I wanted my deposit back with the interest, if that were the agreement, would that be possible?

SENATOR DUPONT: Well, Senator on page 2, section 4, the last sentence reads; and it refers to interest rates but I'm sure that it could be implied, there's no impairment of the right to withdraw a transfer principle immediately. And this will not affect it any more than it would affect your ability at the present time.

Just to tell you the mechanics of it, if a real estate agent now has an account in which his deposits are put into, the only difference would come, there would be a separate account set up in that bank that all the interest from all the real estate trust accounts that are in that bank would be funneled in to that one account. The broker would still have total control over what goes in and out of that account. The only thing that he wouldn't control is the account that the interest goes into. So, one account in each bank that would just be a master account, so to speak, for all the interest to go into. So, he would still have his own check book that he writes and brings deposits into and out of. So, it will not affect any of the transactions on behalf of the individual that's purchasing the property.

SENATOR HEATH: Senator, in the absence of the passage of this, what charity, if you will, benefits from a noninterest account?

SENATOR DUPONT: Senator, you know it really amazed me that the banks hold the money in noninterest-bearing accounts and I don't know but there must be some history to it as to why that happened but, it basically sits out there and your local banker is the charity, if you want an answer to your question.

SENATOR HEATH: Would you believe that I was amazed to find that out, too, some years ago and I've always been puzzled why that charity stood to benefit.

SENATOR NELSON: I rise, also, to support and commend any one in the State of New Hampshire who wants to offer any solution to affordable housing. I feel though that we must be clear at what we're trying to do and it must be right. It does say in this bill that the broker may, with the knowledge of the parties, place the money in

the interest-bearing account and may give it to a charity. I think we should determine who owns the money, whose money is it we're placing in and doesn't the owner have a right to the interest? I support the concept but, at this time, until I have more answers, I would not be able to support it.

SENATOR WHITE: Senator Dupont, if we don't act on this amendment today, what happens to the bill?

SENATOR DUPONT: Senator, to be honest with you, this is the last day for action on this, this is a re-referred bill and it's not perfect. I'd be the first to answer, but in the middle of the debate, and Senator Hounsell is right, we haven't defined affordable housing. It was my own feeling and the committee's feeling that we ought to have something out there that we can work on. I can tell you today, with total confidence, that this is going in to a committee of conference; it may not come out of the committee of conference because there may be another avenue that we elect to go to. But, however, I feel that it has enough merit that it ought to have the opportunity.

CHAIR: Under Joint Rules, we have five legislative days in which to handle re-referred bills. What I've tried to do is under three days do it here, under Joint Rules we have a total of five days. We are now in our three day. It was our policy to try to complete the re-referred bills in three days. If this body choses not to do that we have two more legislative days to do this.

SENATOR WHITE: I rise in support of the amendment. I feel that it is important that we act on this, at this time, and get it over to the House. Senator Dupont has assured us that this is not the final version, that we will have an opportunity to see it. But, as you all know, affordable housing has to be defined, and until it's defined we could be here the rest of the session and not get anything accomplished. Next Thursday, or a week from Tuesday will be our fifth legislative day, so that even if we waited until the fifth legislative day, I'm sure that we still couldn't define it at that point. So, I think it behooves us to pass it and have trust in the Majority Leader that he will keep us informed as the bill progresses through the House and the committee of conference.

SENATOR DUPONT: I really, to be honest with you Senator Hounsell and Senator Delahunty, this is not my bill. I've been trying to come up with a solution that will allow this bill to be alive if it is needed. You can table it and if it never comes off the table it's not

going to break my heart. I've worked on it, I've put a lot of time into it, as Senator Hough will attest, I've worked with the realtors on it and I've tried to put together a consensus that they are comfortable with, at least sending back to the House. I'm not going to have the time in the next week to work on it. If you want to table it, then I think the onus is going to have to be on you to take the thing and go back to these parties and try to work out something that you're comfortable with.

SENATOR MCLANE: I rise in strong support of the work that Senator Dupont has done. This bill is Elizabeth Hager's bill, from the House. The newly elected mayor of the city of Concord. Liz put this bill in last year, but because she discovered that these noninterest-bearing accounts were literally money going to waste. Obviously, the banks were using the money but because of the State and federal law, they can not bear interest. The lawyers in this State have the same problem, not with escrow accounts, but with various accounts that come into their office that they or their clients are not allowed to receive interest. They have solved the problem, by having a State sort of lawyers account in banks, in which they put this money and the interest goes back to the bar association and it's used for various charitable projects. It was Liz Hager's thought that the same thing ought to be happening for the real estate people, because she was trying to get this money for the United Way. I think that this is a bill that has considerable merit. I don't think its connection with the definition of affordable housing is really a problem, because the bill, I believe, says charitable purposes or affordable housing. So, I ask you, for my friend and for the concept, to pass this on and accept the wish of Senator Dupont that it will eventually go to the committee conference as the affordable housing issue moves on.

SENATOR NELSON: Senator Dupont, I want to thank you at this time for your patience and I appreciate you in helping to educate me on a complicated topic that has just come before us, five minutes ago. I would ask you if, is there another situation in the State where we have noninterest-bearing accounts other than the one that the attorneys have? Do you know of any other escrow accounts that are interest-bearing in the State?

SENATOR DUPONT: Senator, I don't know. This has been an education for me, too. To be honest with you, it's been difficult for me to try and get a consensus out there amongst the parties involved, so I don't know of any other.

SENATOR ST. JEAN: I wasn't here for this particular hearing but, after the questions that were asked by Senator Nelson, as I understand what we're talking about, people buy a home with money down. The brokers weren't educating people to the fact that they could put that money downstroke in an interest-bearing account. But, why shouldn't it be, Senator, that if they do put it in an interest-bearing account, that money should go to the individuals whose money it is, as Senator Nelson was alluding to?

SENATOR DUPONT: Well Senator, I may have spoken incorrectly and maybe a realtor in the room could educate me as to whether or not the people have a choice or whether they can elect to have that money put in an interest-bearing account. That I'm not aware of. All I'm aware of is that the problem existed and we looked upon it as an opportunity to address another problem without raising new taxes; basically it's money right now that's not being utilized.

SENATOR ST. JEAN: But, wouldn't you agree that the individual who puts the money down, that's their money and if it's in an interest-bearing account, it should go to them?

SENATOR DUPONT: Senator, I would hope that one that has the opportunity to purchase a house might look upon somebody that doesn't and say my good fortune is a way that I can assist somebody that isn't so fortunate. That was the humanitarian in me speaking and you probably don't hear it that often, but you just heard it now.

SENATOR HOUNSELL: Senator Dupont, I have been fortunate enough to be in violation of one of the rules that said that no other conversation should be going on when another member is speaking, but Senator Bond has enlightened me to a degree to some advantages of this, and I will now state that I will vote for this, given his comments and your assurance that this will probably be hammered out in the process, which is known as the committee of conference.

SENATOR DUPONT: Senator, I will give you my assurance that this will go to a committee of conference. I already have that commitment and that's basically why it is here today.

SENATOR HOUGH: I, too, rise in support of the floor amendment and I would just like to indicate that, number one, if you look closely at the amendment, the word a broker may, which makes it elective or permissive, is in the amendment and that if you look at the roman numeral one it says, the broker shall not receive any interest from such account for the broker's own account. A number of realtors in

my area who have formed a local organization called the Hanover-Lebanon Board of Realtors, Inc. and I have their bylaws, approached me and requested that I give Senator Dupont their input. This is a piece of permissive legislation, it is to no direct benefit to a real estate broker. Senator Bond, Senator Preston, Senator Bartlett and others are actively engaged in the profession of realtors and they understand how these things work. There is an escrow account, my recollection when I bought my home was, and that was 15 years ago, and I assume that things have changed but, I put a deposit of a \$1,000 down for a period of about 45 days with the realtor and I assumed he put that into a bank account that earned no interest and once all of the various arrangements had been made for me to close on my house, the \$1,000 was applied towards the deal. There was no interest. The bank had the benefit of it. Had this bill been enforced at the time, upon my consent and in agreement to, the money could have been put into an account that the broker could have chosen to establish and the interest in 45 days on a value of a \$1,000, the amount necessary to seal the deal, would not have been of great significance. But, if 50 people were going through that real estate office at the same time with similar values, then there could be some interest and I think that the point is that the realtors as a profession understand what is happening. They would like to be able to establish these accounts, this legislation would give them the statutory authority to do so. Then as public spirited professionals and right here in the law it says it can be of no direct benefit to them, they would like to be good citizens and try to alleviate problems that they become aware of and so this is the reason why this permissive legislation is requested. The people in my area that are in the profession want it; Senator Dupont has worked very hard on this piece of legislation; it's permissive in nature; it is of no direct benefit to the realtors, if that is one's concern and Senator Dupont has not only told you but I am aware of the fact that this bill will go to conference, it has merit, it has been worked on. Between now and the final disposition any questions will be hammered out in the conference and it will be one more attempt by this legislature to address a serious problem, in a very small way but it is one of many parts to this problem that we are all dealing with this session. I wish you'd support this and let's get it going. Thank you.

SENATOR NELSON: Senator Hough, if I vote yes, I'm voting not for the bill, I'm voting to send this bill over to the House, so that it will go in to a committee of conference and be studied? That's what I'm voting for?

SENATOR HOUGH: If you vote for this amendment and passage of this bill, you are number one, at that point agreeing to permissive legislation that is of no direct benefit to any realtor, but you are also doing so with full knowledge that Senator Dupont has indicated to the colleagues in the House that there will be a conference and out of the conference will come a report that you will have full confidence in.

SENATOR NELSON: Thank you, sir.

Floor Amendment to HB 532

Amend the bill by replacing all after the enacting clause with the following:

1 New Section. Amend RSA 331-A by inserting after section 3 the following new section:

331-A:3-a Interest-Bearing Trust Accounts. Notwithstanding any law or rule to the contrary, a broker may elect to create or maintain one or more interest-bearing trust accounts for transaction deposit moneys which are to be held for a short period of time. Each account shall comply with the following requirements:

I. The broker shall not receive any interest from such account for the broker's own account.

II. The broker may, with the knowledge of the parties to a transaction, commingle transaction deposit moneys in such an account with similar funds from other transactions on the condition that all net interest earned on such account shall be payable only to or for the benefit of one or more charitable foundations whose purpose is to improve the availability of affordable housing in the state of New Hampshire. In order to qualify as a charitable foundation, any such foundation shall comply with all applicable provisions of section 501(c)(3) of the Internal Revenue Code of 1986.

III. An interest-bearing trust account may be established with any bank or savings and loan association authorized by federal or state law to do business in New Hampshire and insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. Funds in each interest-bearing trust account shall be subject to withdrawal upon demand.

IV. The rate of interest payable on any interest-bearing trust account shall be the same rate of interest paid by the depository institution for all other holders of similar accounts. Interest rates higher than those offered by the institution on regular checking or savings accounts may be obtained by a broker on some or all of de-

posited funds so long as there is no impairment of the right to withdraw or transfer principal immediately.

2 Effective Date. This act shall take effect 60 days after its passage.

Floor Amendment Adopted. Ordered to Third Reading.

RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; except for CACR 29 which will require a roll call on third reading and that when we adjourn, we adjourn until Tuesday, January 19th at 1:00 p.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

SB 290, relative to expenditures of funds from the highway surplus account.

SB 296-A, relative to the construction of regional vocational education centers and making an appropriation therefor.

SB 298-A, relative to student housing at the New Hampshire technical institute and making an appropriation therefor.

SB 325-FN, relative to providing support to families coping with a severely disabled child or young adult family member using funds already appropriated.

SB 353-FN, relative to motor vehicle plates for organizational vehicles.

HB 532, allowing real estate brokers to establish interest-bearing trust accounts.

Roll Call for CACR 29 (3/5th vote needed):

The following Senators voted yes: Hounsell, Heath, Freese, Dupont, Chandler, Roberge, White, Nelson, Charbonneau, Podles, Johnson, Stephen, Bartlett, St. Jean, Torr, Delahunty, Preston and Krasker.

The following voted no: Bond, Hough, Disnard, Pressly and McLane.

18 Yeas

5 Nays

Adopted.

CACR 29, meetings of the General Court Providing that: The General Court shall meet biennially.

Senator Dupont moved to adjourn.

Adopted.

Adjournment.

Tuesday, January 19, 1988

Senator Podles in the Chair.

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, grant us the power to make each day a milestone in our lives! May the success of our work resound in the fulfillment of the necessities which surround us! Help us Lord, to overcome our own endeavors and desires.

Amen

Senator Freese led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

Senator Dupont offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 82 and 353-FN-A shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 82, relative to rate increases resulting from construction of large-scale electric generating facilities. (Executive Departments)

HB 353-FN-A, relative to condominium conversions. (Executive Departments)

HOUSE CONCURS WITH SENATE AMENDMENT

HB 240-FN, relative to sewage disposal systems on waterfront properties and expanded use of sewage disposal systems.

HB 403-FN, clarifying penalty provisions for violations of local codes and regulations, and relative to district court jurisdiction over such violations.

HOUSE NONCONCURS WITH SENATE AMENDMENT REQUESTS COMMITTEE OF CONFERENCE

HB 571-FN, relative to the certification and financial management of life care facilities and making an appropriation therefor.

The Speaker appointed Reps. L. Fraser, S. Townsend, J. Parks and R. Buckley.

Senator Delahunty moved to accede to a request for a committee of conference.

Adopted.

The President appointed Senators Delahunty, Freese and Blaisdell.

HB 480, recodifying the county corrections laws.

The Speaker appointed Reps. J. Barnes, R. King, R. Gage and L. Dykstra.

Senator White moved to accede to a request for a committee of conference.

Adopted.

The President appointed Senators White, Heath and Nelson.

Recess

Out of Recess

Senator Bartlett in the Chair.

Senator Charbonneau was excused for the day.

COMMITTEE REPORTS

SB 267-FN, relative to child passenger restraints in motor vehicles. Ought to Pass. Senator Preston for the Committee.

SENATOR PRESTON: SB 267, relates to child passenger restraints in motor vehicles. As you know, the existing state law mandates seat belts for children up to the age of five. SB 267 would increase that age to twelve. We're very busy, at the time we had this hearing and it lasted for about two hours, some of the Senators were coming and going and a couple of the Senators sat there for a good hour. When it came time to report this bill out, I think, the Senators, historically, know that I am opposed to mandating just about anything and I opposed the mandating of the state bill in the last session. I hate to name names, but Senator Torr nor Senator Johnson would report this bill out for me, so I stand here with the committee report to explain it to the members of the Senate. As I indicated, I am opposed to mandating all regulations and I caution some folks who have worked hard on this that things always don't come out the way you want them to.

It was quite a hearing; we had doctors and nurses there, giving us testimony on the real need to protect the children. We had EMT's there, the New Hampshire Head Injury Foundation was represented, indicating what occurs to the people, they have an organization in the state, of young and old alike who have suffered head injuries that has had a traumatic effect, not only on their personal health but the family. We had patients appear before us. The American Automobile Association appeared before us. One person spoke in opposition to the bill. Particularly, we had students there, we received a multitude of letters. Talk about lobbying, I think the Kimball students should wear orange badges from now on, Senator, because of the fine letter and the fine speeches they gave before us. The arguments were many. It indicated that one out of every forty youngsters born today will die in a car crash before the age of 25. We were told that two out of every forty infants will experience serious injuries in a car crash. For every 1% increase in seat belt use annually, that one hundred and fifty lives are saved in the United States. The seat belts, in certain categories, prevent injuries by 51 to 58%, and fatalities by over 60%. It was difficult to argue with them. We were also told that only 25% of the children from age five to twelve now wear the seat belts. I looked at this bill urging my fellow Senators to report it out because it kind of reminded me of a spotted newt bill that a Senator put in from another district. We have a lot of school children supporting this ugly little creature that I argued against and I got a lot of letters from the kids, they thought who is this ogre and I lost that day. I have been torn in this bill and I have tried to separate myself from past controversies regarding the use of seat belts. I said, "is this a natural extension of what we are now

doing?" Even if you hate to mandate things, didn't you support child labor laws that protect children in certain things on the work place? Was it not the Senate, in the child sexual abuse laws, that mandated things that would occur to protect our children in these categories. Were those doctors, nurses, parents and special education people right when they said, "you don't know the cost of not enacting this bill until you try it?" because they cited special instances of special education requirements of over \$20,000 a year to try and get some kids to be able to read again. Nonfunctional children that, for the rest of their lives who have to be maintained and cared for by families, the cost being born by the citizens of the State of New Hampshire.

I will say this that if any seat belt bill comes up mandating seat belts for everyone, and this isn't a foot in the door measure with me, that I will oppose such mandates, but I frankly urge you to support the bill before us today and thank these youngsters for convincing us.

SENATOR MCLANE: I am proud to represent the Kimball School and these children. I think that their input is particularly important. I believe that a bill like the spotted newt bill, they were just ordinary constituents pressing for legislation, but this bill is different. These are the kids that are going to have to buckle up and it is a cinch, as they say, to do so and they believe in it. They have studied the issue, they've ridden on the convincer and many of them have been in personal situations where they knew that seat belts saved lives.

The statistics since 1973, when we passed the seat belt legislation for infants and children under five, have shown that eight hundred children are alive in New Hampshire today because of the passage of that legislation. Eight hundred children's lives were saved by the use of child safety belts. If there is one other fact that could convince you of the necessity for passing on this legislation to age twelve, I think it is that. I have a very personal interest in this bill, as many of you I'm sure, but you know that I have often told you that I have eight new granddaughters in the last five years. Four of them were in a very bad accident last year and the headline in the Valley News read; "four children saved by seat belt use". None of my daughters would think of driving out the driveway without buckling up their children, and I often times admire them for the struggles that they go through with a 2 1/2 year old who won't put her arms up to get those awful seats down. But, if one instance showed our family the necessity for seat belts, I would urge for you to pass this legislation.

SENATOR STEPHEN: Senator McLane, wasn't it clear that the Senate voted that they did not want people mandated on seat belt issues?

SENATOR MCLANE: I remember that argument and I remember the debate and I think that the principle point about this bill, is that; as the sponsors have said, that at age twelve a child can make that decision for themselves. But, up in to that age, it is a decision that has to be made for them. It takes a good crash to convince someone the importance of seat belts. From my hearing of the testimony and the reaction of Senators in that room, from the change around in Senator Preston when he really got that old emotion going and sat for two whole hours and listened to the debate, I believe the Senate is ready to change their minds about mandatory seat belts when it comes to children, twelve and under.

SENATOR STEPHEN: I'm also for saving lives and I recommend people should wear seat belts, but also I regard this, as Senator Preston referred to, as a foot in the door, for mandating seat belts. The advocates of mandatory seat belt laws in our state, this is what this is advocating. Also, who is to pay the fine?

SENATOR MCLANE: The parents of young children are responsible for their actions and this is to make the parents responsible for those children buckling up. Any other behavior that happens in a car, the responsibility lies with the driver. The driver by definition has to be over 16 and I believe it is very clear that the violation would be on the driver.

SENATOR STEPHEN: I understand the parents should teach their children to buckle up, but they can't force them to. If you require children up to 12 years old, what stops us from raising this to 18, 19, 20 and 21 years old? You can't force people, but you can educate them. I think all people should wear seat belts.

SENATOR MCLANE: I believe that any parent who turns to a child and says, "this is the law now, I won't start the car until you buckle up," which is what you do with a very recalcitrant 3 year old. I believe that that parent is well able to take the responsibility as they should for their other children's actions.

SENATOR STEPHEN: All I know, is that if we allow this bill to go through, Senator McLane, I believe next year we will be back for a 21 year mandate.

SENATOR MCLANE: I can not promise you one way or the other. I think this bill should rise and fall on its merits and I think its merits have been well expressed.

SENATOR WHITE: I rise in opposition to the pending motion. I agree with Senator Preston, that it is kind of difficult to mandate things and I am sorry to see that he was swayed by the children. I would like to say that I supported the bill last year, because I do think that those children under five years old do need guidance from their parents. But, I think perhaps if this bill had been amended to perhaps 7 years old that would be one thing, but I think to go all the way to 12 is just a bit too high. Especially where you consider that we are exempting school buses.. If we want to train people then perhaps we should have something on back school buses to indicate you should, in your own car, be buckling up. Maybe what we should do is on our license plates, change it from 'Live Free or Die', to 'Sit Free or Die', because eventually this is what we are going to get to because everyone will have to be buckled up. I think perhaps it goes back to something I heard recently at a conference, where someone was told by her father to buckle, dummy. She said I'm not a dummy. He said well, you are a dummy if you don't buckle up because by buckling up you don't have to go back to the scene of the accident. I believe in buckling a seat belt, but I don't believe that we have to mandate it in law.

SENATOR HOUNSELL: Senator McLane, do you believe that parents in New Hampshire have deep concern for the welfare of their children?

SENATOR MCLANE: I do.

SENATOR HOUNSELL: Would you explain to me, the need for the state to involve themselves in a process of parenting, doesn't the parent already have that ability to love their children?

SENATOR MCLANE: I think probably the way that I could answer that most clearly is, with the statistics that only 25% of children between the ages of five and twelve now buckle up. In New York State, which has had this bill for several years now to buckle up up to thirteen, 65% of the children now buckle up. When you translate that into the 800 children saved over birth to five years. I think you can see that we would be talking about a significant number of children's lives saved by this legislation.

SENATOR PODLES: I rise in favor of SB 267. It is another bill protecting children. Seat belt use is a preventative measure that

takes only a few seconds of time. A statewide survey released by the New Hampshire Safety Council of New Hampshire, found a 17% decline in the use of safety restraints for children. The figures showed 58% using belts or restraints in 1986 as compared to 41% in 1987. I, with others, feel strongly that seat belts do indeed save lives and they reduce injuries. There is definitive evidence that seat belts help. From the time a child is born he or she is taught to use restraint seats for safety reasons. It poses a dilemma for many kids and parents when there is no requirement for the use of safety belts as they grow older. I don't think parents want their children to give up completely this good habit formation. New England state's are buckling kids up; Maine, Vermont, Massachusetts, Rhode Island and Connecticut have extended their child passenger laws. New Hampshire children should be protected as fully as others in the New England region. I urge passage of SB 267. It will continue to protect the children until they are old enough to reasonably make their own decisions.

SENATOR HOUNSELL: I too wear my seat belt and I too encourage all to wear their seat belt whether they are twelve or whether they are ninety-two. Seat belts do save lives. I think that that message is getting out through education, I think it is getting out through such efforts as the school that is in attendance today. I think that statistics speak to the fact that you should wear your seat belt. However, we live in a land that is a little bit different than other lands. As Senator McLane has said, people of this state, parents of this state are responsible. By and large most parents of this state truly love and care for their children. That same parent does not need to be told by the state that if they fail in certain areas, particularly today to require their children to wear a seat belt, that they are in violation of law. The state should not continue its bent on replacing parents. Although I admire the intent of this law to protect children, I think that given the fact at the current law is not adequately enforced that we are infringing upon a sacred liberty, that we must pursue what is the course of this nation and that is for parents and children to communicate. Therefore, I rise in opposition of this bill.

SENATOR MCLANE: Senator Hounsell, do you think that if you had gotten a letter that said, "you look so handsome in your big chair with the leather back," that you might have changed your mind?

SENATOR HOUNSELL: No, that wouldn't have change my mind. I did get letters and I do appreciate those letters and I truly appreciate the students in the initiative taken because it does raise a very

important issue but, no I don't have my vote, on very important matters, decided by a garnished letter that is perhaps an overstatement of the fact. I don't look all that handsome in my leather chair.

SENATOR MCLANE: Do you think that this is perhaps carrying a motto that you believe in, "Live Free or Die" to an absurdity?

SENATOR HOUNSELL: What I think is an absurdity, Senator McLane, is for you to say that parents are responsible and yet they're not allowed, by the State, to exercise that responsibility. I would point out that there are other areas of law that we have in this State that diametrically oppose the statements that you've made earlier. I would point the absurdity of this as the absurdity of believing that parents do not know how to care for their children.

SENATOR STEPHEN: I rise, again, in opposition of this bill. Clearly, people have stated that they were against mandating of seat belts. I want to, also, congratulate the children upstairs for their interest in this issue and their interest in our State government, but also you should all wear seat belts, as I've always said, but we shouldn't be mandated to do so. Thank you.

SENATOR HOUGH: I rise in support of the passage of this piece of legislation along with my colleagues Senator Podles and Senator McLane, who believe very sincerely in the intent of this legislation and are happy to co-sponsor it. I wish to compliment Senator Preston and his committee on the number of hours that they were willing to sit objectively and take testimony. But, I think you must all realize that this is not a question of sacred liberty or live free or die, it's a question that all of us, as parents, can relate to. We have passed legislation that requires the restraint of the infants and the toddlers. There isn't a father or mother in this room who hasn't had the experience on a very hot July or August day, loading the station wagon with all of the vacation equipment and putting the family dog in and heading off down the interstate with the five to twelve year old that wanted to know when they were going to get there, pulled their sister's hair, had to go to the bathroom or were hungry. That's what we've all experienced. We also realize that when you have the age group that we're talking about in an automobile, that there's a tendency to be a distraction, not only to the parents, but to be jumping all over the place. In the event of an accident, these young people will be severely injured. I think just as a reasonable and a caring parent, we all recognize this. We took the testimony of doctors and nurses and emergency medicine personnel. We've listened to these

students who understand what the issue is and they very correctly are trying to generate a positive support and they are trying to get into the habit of using seat belts themselves and establish a self-discipline, if you will, that will carry throughout their lifetimes. They also realize, that in spite of their good efforts, there are a number of people of their age that would not use seat belts. So, they are supportive of this legislation.

Automobiles, as they are manufactured and as we buy them, and if you ever take the time to look at the back of your visor or read the owner's manual, show very specifically that the proper use of this piece of equipment is to use these restraints. We require inspections of automobiles, in terms of their other types of safety equipment, and I see nothing inconsistent with making New Hampshire law require people of this very critical age to operate or be in an automobile that is operated properly. For this reason, I think that we should pass this legislation on to the House. It makes sense and it will save lives. Thank you.

SENATOR NELSON: Senator Hough, did you hand out these papers?

SENATOR HOUGH: I will admit to that document, yes.

SENATOR NELSON: I noticed on this "New England is buckling kids up", that the State of Massachusetts has a mandatory seat belt law for children from zero to twelve. Is that correct?

SENATOR HOUGH: Not only did I hand this out, I was given it in my office from a carrier and I haven't even had a chance to look at it. But, I saw that the smart people, such as yourself, have and if that's what it says then I would agree with you, Senator Nelson.

SENATOR NELSON: I was wondering, sir, in Massachusetts, if that is in fact true, that the law states that children zero to twelve must buckle up?

SENATOR HOUGH: Effective 1987.

SENATOR NELSON: Did the Massachusetts citizens, in fact, ask recently to take off the mandatory seat belts for adults, and kept the one for children?

SENATOR HOUGH: I will agree with whatever you say, Senator Nelson.

SENATOR JOHNSON: As a member of the Transportation Committee, I rise in support of the pending motion, ought to pass. I'd like to say at the beginning that I share the concern that Senator Stephen voiced about mandates and we all have an aversion to mandates in this body. On the other hand, I'd like to remind this body that we are talking about minors, we're talking about kids, students that are twelve years old and under and the New Hampshire legislature has a long history of passing legislation effecting minors. We're going to have a bill in regard to a drivers license and minors next week. We've had smoking legislation in regards to minors, so we're talking about minors, in particularly children age twelve years and under. I don't agree with the notion that if we pass this bill that it will therefore be extended. I don't believe this body would do that. I wouldn't support that but, after sitting through that hearing and listening to the overwhelming body of evidence presented by the people most directly concerned, the medical community, the injured and the students themselves. I am persuaded that we need to pass this bill today. I particularly commend the medical community, who came out in force, the emergency people, the whole raft of them. The people who deal with the consequences of this, the people who deal with the children whose brains are shaken up, whose spines are broken and if they say that we ought to have this, I'm willing to take their word for it and the words of the students and the injured parties involved.

SENATOR HOUNSELL: Senator Hough, would you support this bill if there was an amendment offered that required pregnant women to wear their seat belts?

SENATOR HOUGH: Well, I would answer this question to you, my record on automobile restraints is very clear and I've always supported any type of legislation that requires everybody to wear them, but that isn't the issue here. The issue is very directly adjusting the limits under the law that is presently on the books, upwards to twelve years old. I would prefer to see this legislation acted on as it is before us, any other subject I could be supportive of under a different vehicle, you know that..

SENATOR BLAISDELL: Historically, in this Senate, I guess my votes have shown that I have always voted against seat belts. But, up there, right there in that balcony there's the greatest natural assets that we have in this State. Our kids. And if you want it, I'll vote for you kids, really, I'll vote for you, if you really want it and are sincere. It seems that you are because you're sending me some beau-

tiful letters, better than some of the constituents I have in my area. At least you spelled the words right, but as I said I will not vote for a mandatory seat belt when you become adults. When you become adults, I'm going to make you make that choice. I will not vote for it but, I will vote for this and I'm voting for it because you sold me on the idea and don't ever forget it. Keep it up; keep up an interest in government because that's what we need; we need you.

CHAIR: At this point the Chair would like to thank the Kimball School for attending and we're going to have a vote in a few moments. I'd also like to thank the letters of invitation and your response in being a part of this piece of legislation.

Roll Call requested by Senator Podles.
Seconded by Senator Blaisdell

The following Senators voted yes: Bond, Hough, Dupont, Disnard, Roberge, Blaisdell, Pressly, Nelson, McLane, Podles, Johnson, Torr, Preston and Krasker:

The following voted no: Hounsell, Heath, Freese, Chandler, White, Stephen, St. Jean, and Delahunty.

14 Yeas

8 Nays

Adopted. Ordered to Third Reading.

Recess
Out of Recess

Senator Podles in the Chair.

SB 245, limiting the horsepower of boat motors on Long Pond in the town of Northwood. Ought to Pass. Senator Hounsell for the Committee.

SENATOR HOUNSELL: Senator Johnson should be commended for the fine work that he did on this bill because he brought, at least to my mind, answers to all the questions and that is, and I'm going to use his words, because I think that for those of you who deal with such issues as ponds and lakes and restrictions of use should understand this. First of all, he had consensus among the property owners. That was number one that he had. Number two, he had the absence of a negative to the public welfare. There was, in that regard, no opposition to this bill. Long Pond, the pond in question, is about 99 acres. There are many shallow parts in the lakes and there

are also many islands. There are also many unmarked large rocks making it unsafe for boat travel and it's shaped in an L with two islands in the middle of the heel of the L. Again, no one appeared in opposition to this bill. It restricts the use of horsepowers only; it doesn't restrict the use of petroleum powered but I think something that should be noted is the fairness of this bill, it has until June 1, 1992 for compliance. The committee was unanimous in its support of ought to pass and urges the Senate to vote therefore.

SENATOR DELAHUNTY: Senator, you said this restricts the use of horsepower. Does it restrict the number of horsepower on the motor of the boat or does it restrict the use of that horsepower? If I have a 60 horsepower motor on my boat now and I only use 10 horsepower, is that what the bill says? Or is it telling me I have to buy a new motor?

SENATOR HOUNSELL: If you have a 60 horsepower motor and this passes, stay off Long Pond, Senator Delahunty.

Adopted. Ordered to Third Reading.

SB 257, extending the reporting date of the biomass study committee. Ought to Pass. Senator Hounsell for the Committee.

SENATOR HOUNSELL: This bill merely allows this study committee, which has been very active and wishes to remain active, to continue it's work up to December 1, 1988. The committee is already in place.

Adopted. Ordered to Third Reading.

SB 277, prohibiting the hunting of mourning doves in New Hampshire. Ought to Pass. Senator McLane for the Committee.

SENATOR MCLANE: SB 277, prohibiting the hunting of mourning doves in New Hampshire, is a departure from the usual dealings that the State has with the Fish and Game Department. The general trend has been to let the Fish and Game Department make their own decisions as to what animals should be hunted and what the season should be and what the bag should be. It turns out that mourning doves are hunted in most of the United States, 39 states do allow for the hunting of mourning doves. Rhode Island is the only New England state that does have a mourning dove season. We had testimony from hunters who enjoyed the sport of shooting mourning doves. We had testimony from a man who said that the mourning

dove meat is very good, though I can imagine it's probably about bitefull for each breast. We had testimony from Mr. Howell of Fish and Game who told us that fifty million mourning doves were killed each year, which is 10% of the population, and yet mourning doves are increasing. There is no biological reason why mourning doves could not be hunted but, I would like to say to you this morning, that the Fish and Game Department and this legislature not only deals with environmental issues but also deals with political issues. There is no doubt in my mind, or in those that heard the bill that, as the Union Leader says, four to one the people of New Hampshire oppose the shootings of mourning doves. I believe that it has become a symbol of peace, as a matter of fact we had one light moment at the hearing when some one tried to tell us that the mourning dove wasn't so peace loving. That they fought at feeders, in fact he said they attacked a male cardinal and we all just shrugged our shoulders and said, you see they're all against red birds, they're against communist and the mourning doves really do know what they're doing. The mourning dove is one of the pleasantest birds to look at, to listen to, to feed and to enjoy and I think the people of New Hampshire have spoken strongly that that's the way they want it and for that reason they feel that this bill is necessary so that every two years we're not hauled in to a public hearing and have to defend our love and interest for mourning doves.

SENATOR HEATH: I understand, because I can count the futility of what I'm going to say but I'm going to say it anyway and by the way if you want to make funny comparisons about cardinals being communist cardinals, they're also the hierarchy of the Catholic Church and you can draw your own conclusions from that. We have a process in the State of New Hampshire that has worked for all you people that think this bird that sounds like a rusty hinge is the dove of peace, which is brown instead of the white ones that they use and release in the Olympics and so on. The process has always worked. If you believe that you don't want to hunt mourning doves here, even though they are federally, perfectly unendangered, migratory birds that is hunted legitimately in most of the states in the United States and in no danger here of being hunted to extinction. We have a process and twice the process has worked in your favor and we haven't hunted them. I suspect when you get through, if Jim Finnegan wants you to put it in the constitution of the State of New Hampshire that you'll all roll over, belly up and put it in the constitution. But you're violating a process here that you should really be ashamed of yourselves for doing and I know why you're doing it and I hope you get a few brownie points when your election comes up

this summer, but you're violating a process that has worked in your favor. You haven't seen it go against you, you've seen it go with you and what you're doing is sort of spitting in the eye of the sportsmen of this State who have gone through that process with patience and they haven't come in to ask the legislature to violate that process and to have the legislature make the Department allow them to hunt. They've gone through the process and lost and that isn't enough. It's not enough for reasons that we're all familiar with and so I hope when you're doing this you'll understand what you're doing to the sportsman by taking the process out of their hands on a bird that is not endangered and most of you, I dare say, wouldn't be able to tell one from a white winged dove and some of you wouldn't be able to tell them from Columbidae, the feral pigeon that nests and roosts out here and makes a mess on the statues. If you're really concerned about animal life, there's at least one member of this body that could do something about baby lambs. My good friend Bobby Stephen knows what I'm talking about. But, I don't think it's a funny topic, I really don't. I think we've gone too far on this one, I hope that the House will have better sense and I hope that you people will think about it after you've done and I hope you won't be very proud of yourself for doing it.

SENATOR STEPHEN: All I can say right now is, saints preserve the mourning dove. I guess by a margin of four to one, people of New Hampshire expressed their clear opposition of shooting the mourning doves. Also, it is grossly unfair for the Director of the Fish and Game, that almost on a yearly basis, that he is subject to the agonizing task of determining the social biological and political impact entailed in the proposed slaughter of the dove. I believe the legislative process is the way to go. I am not content to leave it to the bureaucracy. Until the time they can show me facts as to why they should shoot mourning doves, I will pursue this legislation. In Iowa, the Des Moines paper printed a front page picture of a dove with an olive branch in its mouth. Terry Little, a wild life research supervisor for the Iowa Department of Natural Resources, said that the people of Iowa feel strongly that the dove is a song bird, the bird of peace and they don't believe that it should be shot. It is not known if the people of Iowa have the same sentiments concerning presidential candidates. I do not hear anyone publicly supporting the shooting of mourning doves. I have had calls repeatedly stating that why should any one want to harm these pretty little birds? As far as the sportsmen of the State, I have had, and I'm in full confidence that the sportsmen will still go out and I'm 99% with the sportsmen, but I have had people call me and had stated that if this bill was defeated

and we did have a shooting of the mourning dove, they would post their land and not allow hunters to hunt and that is a grave concern to me.

SENATOR WHITE: I rise in opposition to SB 277 and for several reasons. I completely agree with everything Senator Heath has said. I think the issue goes back to a little dispute that's been going on in letters to the editors and comments by Senator Heath; the real problem lies with the Fish and Game Department. They never should have brought forth a mourning dove season and I think rather than coming back here, and you all know I oppose annual sessions, this is one of the reasons I oppose annual sessions because we have bills that are not necessary. This could be taken care of in a little committee that we have, called Administrative Rules and all you have to do is state that there will not be a mourning dove season in the State of New Hampshire. It can be handled very easily in the Administrative Rules Committee. I don't want to see a mourning dove season, I don't think it's necessary. However, when you have fifty million doves shot in one year, and that's only 10%, folks we don't have an endangered species here. I think that when you see the danger that can occur from shooting mourning doves with shot-guns, where they're going to take out telephone insulators and the rest of the things. It is dangerous and I'm not here to advocate a mourning dove season, I hope that we will clean up the Fish and Game Department, the same as Senator Heath does, because it has to be done. But, this could be handled through Administrative Rules. We don't have an endangered species here. I have, in my town, a man that trains dogs to go bird hunting, he raises his own mourning doves. They occasionally get out, because he doesn't pen them in, and I have them on my bird feeder. We don't have bird feeders at my house, we scatter the seed and let who ever wants to get it, get it, because we believe in the survival of the fittest. So, the red squirrels, the grey squirrels and the mourning doves get it and they're not as pleasant as you might think, Susan, because they're a very messy bird. They're like the pigeons but, we feed them and they are very noisy. On the one morning that I might be able to sleep, the mourning doves are out there cooing, but I still feed them. I think this is a bad bill, I don't think Santa Claus is bad and I don't think the Easter Bunny is bad but this is a bad bill and I think it's an unnecessary bill.

SENATOR NELSON: Senator Stephen, would you believe that I have received one phone call from one person, named Ron Sparks, in my district who is opposed to this bill and who brought me three or

four pages of people who are against the bill and not one person in favor of this bill? The question, I guess, is where are those four to one people, where are they?

SENATOR STEPHEN: It was back in 1983, I've got it right here, and in 87; a number of 1600 people were polled. Out of the 1600, 1300 opposed it and 300 were in favor of it. This figure came from the Fish and Game.

SENATOR NELSON: Is there a mourning dove season now?

SENATOR STEPHEN: Presently, we don't have a mourning dove season.

SENATOR HEATH: Senator, when you cite that four to one figure, don't you think it would be fair to cite the fact that one of the hearings on the mourning dove turned out some 50 people, one in opposition and 49 in favor. Then the State newspaper started carrying on about people shooting them off the bird feeder. The director capitulated, as a lot of people do some times, who get on crusades and, after that happened, the director said, well, I'll leave it open for testimony and the testimony ran even—Steven for a few days. Then as the paper got its engines going, the testimony went the other day and they closed it off as soon as they had enough so they could back out gracefully and scoot back down in their warren and keep low. Wouldn't that be just a proper representation as for you to grab those figures that are; one; out of date and two; really not reflective because they're not a statewide poll in representation of how people feel about it in this State?

SENATOR STEPHEN: Well, Senator Heath, I go along with this response. This wasn't actually a poll it was a response in writing and over the phone. All I can tell is that I have heard, for many weeks, that people were against shooting them and they are clearly in the opposition of shooting them, so that's all I know.

SENATOR HEATH: Senator, with all due regard, what is it you feel that is at fault with the process that has so far denied hunters the ability to shoot these in the regular posted season? What's wrong with that process that's worked in your favor, so far, twice in recent history?

SENATOR STEPHEN: I don't see any problem, but I see the hunters, a lot of the hunters have spoken in opposition of shooting mourning doves. They have other game they can shoot and they're

afraid, as I said before, of people posting their land and not allowing them to go on their land and shoot deer and whatever's game.

SENATOR HEATH: Senator, to follow that up, and I guess I'm asking the same question over. I don't understand what it is that's wrong with the process that has already given you what you wanted, no shooting of mourning doves. What is it that's wrong with that process that we have to now override it? We don't hunt them, land hasn't been closed because of it, because we don't hunt them, so what is wrong with the process that we already have that's denied the hunters the shooting of them?

SENATOR STEPHEN: I think because of the political bureaucracy that there is. People do not want this shooting of mourning doves and possibly the Fish and Game want to implement that.

SENATOR HEATH: Senator, do you believe that we should take all species of animals and run them through the process that we have, where in most cases the department sets the season, that we should run all those seasons through the legislature, in a sort of popularity contest? Such as deer and grouse, and ducks and so on, in terms of setting the season?

SENATOR STEPHEN: Senator Heath, I don't think we should do that. But, the issue here is clearly the mourning dove and that's what we should stick to. No other species.

SENATOR MCLANE: Senator Heath, don't you think that this Senate has proved by it's vote on the last bill, that Senators in this chamber do not vote because of a certain newspaper, but vote their own intelligence?

SENATOR HEATH: I'm not sure that I think that that's true. But, I think that is something that is perhaps a more serious vote and something that they have to give a little more consideration. My feeling that the difference between that and this is this, for most of you, is a subject that is precious and you don't really, I can't count three avid sportsmen in this body and you really don't consider their concerns the way you do the concerns of children, who are as many of thousands of sportsmen as there are in this State, there are probably more children. That's a different kind of issue and yes, once in a while, as a collective group, sum up your courage and take the newspaper on as we all have. But, this one seems to be one of those throw away little things that you violate the process that is there in order to patronize an editorial position of a newspaper. Yes, I think that's what you did here.

SENATOR MCLANE: Senator, did you know that you were addressing a long time director of the New Hampshire Audubon Society?

SENATOR HEATH: I knew you were a long time director or a director a long time ago of the Audubon Society, and I don't even know what position that they take in this. Traditionally, the Audubon Society has been a big defender of hunting legitimate, unendangered, migratory species and that is what the mourning dove is, in reality. It's not the dove of peace, which is a different bird.

SENATOR JOHNSON: Senator White, would you believe that if you didn't feed those birds, they wouldn't be messy?

SENATOR HOUNSELL: I rise in support of this bill, but I also think it's appropriate and timely to address the bill as it appears before you. Putting aside people's motivations or people's reasoning for vote. To begin with, I want to acknowledge something here, I care very deeply about Fish and Game matters. I care very deeply about the welfare of the sportsmen and the welfare of the resource so that the sportsmen will have something to enjoy as we all can enjoy wildlife. I would also like at this time to acknowledge, without hesitation, that Senator Heath is far more versed in wildlife and Fish and Game matters than anyone in this chamber, including myself. Although I'm a sportsman, my concern is mainly that that type of endeavor is protected for others who are more of a sportsman than I am. They are a big constituency and whether you're a sportsman yourself, as an elected official you know that. However, from time to time, it becomes appropriate for the legislature to, as I've used in the past, meddle in the affairs of the Fish and Game. I can think of three times that we've done so and I think appropriately. One was in regards to the manner and method of taking of bear and, Senator Heath, I also know you were a support of the manner and method of taking bear appropriately and I think you were absolutely right there. We also have wrestled with the highly controversial authorization of a moose hunt. Then we have the mourning dove season. There have been few of these, a few times where the legislature has stood up and taken it's prerogative to send a very clear message to the Fish and Game Department. Senator Heath, you're absolutely right, their house is not in order and I think it's appropriate for us to be looking at that issue as we look at this. If their house were in order, they would not have a division of game, which initiated, in part, the hearings for a mourning dove. I think most of you may be aware, but for those who are not, a large number of supporters of

the hunt came within the game division itself. I think that borders on abusive power from those people and I think this, indeed, is a message to them that there are more aspects to Fish and Game that they need to consider, such as the social ramification. It doesn't do the sportsmen any good. It doesn't do the legislature any good and natural resources of the department themselves any good for them to let a volatile issue such as a mourning dove season go as far as it does. The process needs to be corrected in this instance. I firmly believe that in our lifetime, the Fish and Game Department will never allow a mourning dove season. I firmly believe that. So that begs this question; why then do we allow for a bureaucratic hoop jumping so that these people at the Fish and Game Department can say, I have the authority? We have the authority and it's time for us to recognize that as we deal with the matters of natural resource and as we deal with this issue of the mourning dove that we're not clouded with the fact that, yes there are editors in this State, as there are other people in this State, who are very strong in their opinion about this but, that we as a legislature, can cut through the reasons and look at the issues. The State of New Hampshire should never have a mourning dove season because most of the people in the State of New Hampshire would never put up with it. For that reason, I urge your support.

SENATOR WHITE: Senator Hounsell, do you believe that they are an endangered species?

SENATOR HOUNSELL: I do not believe that mourning doves are an endangered species, no more than I believe Santa Claus or the Easter Bunny is an endangered species.

SENATOR WHITE: You're a member of the Administrative Rules Committee, the same as I am, do you believe that we could have taken care of this in that particular committee?

SENATOR HOUNSELL: The Administrative Rules Committee could not have taken care of that. We could have voiced some sort of objection but, we would not have had the authority to deny them the implementation under the rule because rule making is very weak. I would also point out that I'm not a big fan of the administrative rule process because I see it as a process that the bureaucrats use to get citizens to jump through a hoop so that they can get proof text to what they're going to do anyway.

SENATOR WHITE: Do we have a bill in the process that will enhance the position of the Administrative Rules so that perhaps it could be taken care of?

SENATOR HOUNSELL: We have even better than that. If the people of this State become as informed as I hope they will, we can give that committee or the legislative body veto power, which I think would be a wonderful tool. But that takes a two-thirds vote and I'm not, at this time, willing to say that that's an assured passage.

SENATOR NELSON: I was just interested in the hearing on this. How many people came in and testified against the bill?

SENATOR HOUNSELL: I don't know exactly how many. I would say there were more people voting against the bill than for it. Most of them, however, were people from the department.

SENATOR NELSON: Senator Hounsell, roughly, having heard this afternoon that the seat belt hearing was packed, would you give us a rough estimate of how many people appeared at the hearing. That is, the general public who appeared at this hearing on this bill.

SENATOR HOUNSELL: I think that question is a good question and it requires an exact number. I will give you an estimation because I don't have it in front of me but, maybe seven or eight people came for it. Senator McLane is indicating that she may know the numbers, if you'd like to have her give you the numbers I'd be happy to yield.

SENATOR PRESTON: Many of the things that I was going to say have been said, as far as how this whole situation could have been handled. I don't want to be fractious, but when I saw this bill being placed in the legislature my heart felt a twinge for other species, that might deserve the same protection, and I thought of the gentle lamb. I looked up the meaning of the lamb and it said; gentle and mild, timid, innocent, easily tricked. I said there is need to protect the species like this and I looked for the appropriate vehicle and I found it. I've often thought of the innocent lambs that go to slaughter in the State of New Hampshire so, I prepared an amendment to this bill, that prohibits not only the hunting of mourning doves, which the Fish and Game is willing to protect, as well as lambs on the run in New Hampshire. So, my amendment simply includes lambs on the run and says, that notwithstanding the provisions of any other law, no person shall at any time shoot, hunt, take as a consequence thereof, or have in his possession, which means to cook

or do anything else, a lamb on the run. I respectfully request that my concerns are as grave as my colleague from another district. I'd appreciate your consideration.

SENATOR BLAISDEL: I rise in opposition to Senator Preston's amendment, lamb on the run. I think that's an affront to you, Senator Stephen, and I certainly would not buy this. I want you to know this, Senator Preston, I say it on the Senate floor. I ask you, in the Senate, to turn this down. I had last evening, by the way, one of the great statesmen in the State of New Hampshire, Marshall Cobley call me. Marshall Cobley asked me to put on another amendment that, I think, is just as ridiculous as this amendment here. The restaurant in Manchester, New Hampshire that we're aiming this at and I'm very disappointed with you Senator, for aiming this at Senator Stephen. He asked me to put in an amendment that would prohibit him opening up his lounge any more if he doesn't give 70 degree heat, because the ashtrays were freezing in his restaurant. Now, I wouldn't do that, Senator, because I think so much of this mourning doves bill and I'm going to vote for it Senator, and I want you to know it. I'm astounded at you, Senator Preston, that you would do this to a man's living. I think the mourning dove bill should pass and I hope we do it right now.

SENATOR DUPONT: I just rise in opposition to this amendment and hope that it would not be necessary for the republicans to caucus to defeat this amendment and ask that the democratic leader withdraw his amendment so that we don't need to go through a floor fight.

SENATOR MCLANE: I just had one serious word to say on this amendment. One word: Bah!

SENATOR PRESTON: I will withdraw this amendment if the Senate will give me an appropriate firm and another time to present at another bill.

Senator Blaisdell moved the question

Adopted.

Roll Call requested by Senator Heath.
Seconded by Senator Blaisdell

The following Senators voted yes: Hounsell, Freese, Hough, Dupont, Chandler, Disnard, Roberge, Blaisdell, McLane, Podles, Johnson, Stephen, Bartlett, St. Jean, Torr, Delahunty, Preston and Krasker.

The following voted no: Bond, Heath, White, Pressly and Nelson.

18 Yes

5 Nays

Adopted. Ordered to Third Reading.

SB 261, relative to setting seasons and bag limits on small game birds and animals. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: There's an amendment on this bill and it appears on page 5 at the bottom. First of all to the bill. This bill, which was introduced at the request of the game division, the Department of Fish and Game. It had no opposition at the hearing. What they want to do is they want to give the director, with a consent of the commission, the authority to set the limits in seasons on the taking of certain small game and birds in the State of New Hampshire.

On page 2 of the bill they're listed and just to inform you if you haven't read it; hares and rabbits, grey squirrels, grouse, woodcocks, snipe, pheasants, partridge and quail of many kinds. The amendment that we have in the calendar does two things. First it changes the effective date to upon passage, the bill allows for 60 days, which is standard and required of legislative services. The other is that we give them this authority for a period of two years; specifically until December 31, 1989, which they were agreeable to. This follows what we do with the bear and the deer season. The committee hopes that you will accept the amendment and then final passage of the bill.

Amendment to SB 261

Amend RSA 207:56, II as inserted by section 1 of the bill by replacing it with the following:

II. The authority of the executive director under this section shall be exercised with reference to the state as a whole or for any specified county or part thereof, and shall expire on December 31, 1989.

Amend section 3 of the bill by replacing it with the following:

3 Effective Date. This act shall take effect upon its passage.
Amendment adopted. Ordered to Third Reading.

SB 312-FN, prohibiting the stocking of bodies of water which are inaccessible to the public. Inexpedient to Legislate. Senator Preston for the Committee.

SENATOR PRESTON: Senator Disnard, the sponsor, is aware of this. That the department and the sportsmen have worked this out to the satisfaction of all. I understand they are taking an inventory of the various large ponds in the State. The Department has adopted a resolution relative to this and it's an on going program that they will be back to the legislators and keep us posted on what's happening. But, the sponsors are aware that this is inexpedient to legislate.

Adopted.

SB 350-FN, relative to the election of fish and game commission members. Interim Study. Senator Hounsell for the Committee.

SENATOR HOUNSELL: This bill, I believe, will require study whether it says interim study or not, I think it requires study. Most of you are familiar with HB 242 that died in the House after being re-referred from the 1987 session. It became a very emotional debate. Sportsmen actually being on both side of it. I think a lot of people have pointed to the sportsmen as coming down and killing the bill. You should be aware that there are many sportsmen who are not happy with the way the commission has operated. I do recognize, as Senator Heath, who is the prime sponsor, recognizes that there has to be some very close scrutiny of the fish & game department in particular, how the commission operates. We've had debate today on some of the volatile aspects of the fish & game.

This bill would have required the reduction in numbers of the fish & game commissioners from 11 to 5. It also would have required for their election. If you start from that position thinking that that is the way that we can work on common ground to making the commission better. However, we are not deaf to the vote that came from the House regarding this. The committee knows that we have a new director on board. The feeling that I am getting from the department in the commission, in the new director, is that they are going to try one last time, I would warn them, to get their house in order. I certainly hope that is the case. I think that an awful lot has been said about the fish & game department, but the fact remains, it isn't the

best run state agency, and could use improvement. The committee urges that this go to interim study, where indeed it will be looked into. Thank you.

SENATOR HEATH: This is my only piece of legislation this session. While I wouldn't want you to pass it in the form that it is here, and I understand there have been a lot of forces in play on this bill, I want to make one thing clear about the relationship with HB 242. HB 242 is not the same bill. HB 242 started out as a bill from the commissioners of fish & game in this state had asked somebody on the House Fish & Game Committee and it was to give them all policy making, they have partial policy making now. To every person who was there, seventeen to nothing voted to do just the opposite, to strip them of all policy making. There was a big fight over there, there was some republican-democratic political things that had nothing to do with fish & game or the commissioners or the bill itself. It went on and it narrowly lost, and 5% of the legislature could have changed it.

SB 350, it is not to be confused with HB 242, was not intended and is not a capricious shot at the commission. I have my differences with the commission, I don't have differences with the commissioners. One of the things, and the important thing to me in SB 350, was and is that fish & game districts today are the strangest things that we have in government in terms of misrepresentation of people that are disproportionate representation. We have one for seven towns in the seacoast; then we have one for each county, some of those counties touch the seacoast so, some of those people get double representation and some don't. We have one for a county the size of Coos and one for a county the size of Cheshire. We have one for the population size of Carroll county with 29,000 people and one with 290,000-Hillsboro. This bill was really an attempt to either make them uniform to the resource, the land, by five equal size districts physically equal or to the population like all the other representative bodies with five in equal proportion following council districts, because that is already a drawn line population wise. They would be equal in some way, so that all the people in the State of New Hampshire, and there are people other than the sportsmen who have an interest in wildlife, as obviously addressed here, I know a lot of you are concerned of wildlife. So, it would be equal representation for the various areas either by resource, geography or population. I think that there is something that can be done with this bill, if you will give it true consideration under study. If you really don't, then vote against study and let's get rid of it now because I hate to use up your time

and my own time in getting involved with a study, if your minds are really made up ahead of time and you are going to give this short shrift next session. I guess I would ask you to vote no on sending it to interim study unless you really are going to it some consideration when it does come back before this body.

SENATOR BARTLETT: I rise in support of the committee report of interim study and I believe that Senator Heath and Senator Hounsell both have good ideas in this piece of legislation. If you do support the interim study, I will appoint a committee and I will definitely appoint the two members who are on the bill, because I think it has merit. The problem that I have is that fish & game has been in a state of flux the last three to five years. They have just appointed a new director; he appears to have things rather calmed down. I think that rather in the emotional state which fish & game and the directors have been in the past, I think we have a calming effect over there. I would like to see things get back into order and at that time, maybe in 1989, we come back and if this committee feels that we should make the change that they propose here today, that I could be very supportive of bringing that forth. But, right now fish & game has gone through the bashing and the arguments back and forth, I think it is time to have a calming effect. The house is, basically by their vote, whether it was emotional or not, voted almost by 40 votes, to retain the present system. To send it over to the House would again start another quarrel regarding fish & game. I don't think fish & game, at this time, needs any more battles, I think we need to settle down, try to put things back together for the benefit of all the fishermen of the State of New Hampshire. Thank you.

SENATOR HOUNSELL: Senator Heath, I really appreciate your comments and I appreciate hearing what Senator Bartlett has said. I think I have expressed to you, my desire to study this. I am very encouraged to hear that Senator Bartlett will be authorizing a study committee to begin. I think that as this issue continues, because by far it isn't finished, that your expertise might be best served and I think, that I would go out on a limb here on the Senate floor and say, that as we go to interim study with the sincere desire to study this, that I would be happy to suggest that this special committee be chaired by yourself, Senator Heath.

Adopted.

SB 258, relative to boating restrictions on Little Diamond Pond in the town of Stewartstown. Ought to Pass with Amendment. Senator McLane for the Committee.

SENATOR MCLANE: This was a thoroughly nice hearing with no opposition. Little Diamond Pond up in Stewartson in the northern part of the state, has an average depth of about 7 feet and is only about 50 acres large. At some times there can be as many as 43 boats on that lake, most of them coming from Coleman State Park. One of the boats was 27 feet long and there were six lines trolling from that boat. The large motors they use, there are some up to 90 horse power; are stirring up the bottom bringing in asiatic mill foil. Those residents that live around the pond have asked that it be closed to gasoline motors and have electric motors used. There were a group of very elderly men, two of them testified that they had come every summer to this lake since 1926 and one of them said that usually he only had to dress his trout fishing line about every two to three weeks, and dressing is when you dry off the line so that it floats on the water but, since all those motor boats had been in there he had to dress his line four or five times a day. They felt that there was definite environmental damage being done to the lake. As I say, the residents of the lake are very strongly in favor and they were the only ones that appeared.

Amendment to SB 258

Amend section 2 of the bill by replacing it with the following:

2 Effective Date. This act shall take effect upon its passage.

Amendment adopted. Ordered to Third Reading.

SB 288, relative to placing articles on the official ballot. Ought to Pass with Amendment. Senator Pressly for the Committee.

SENATOR PRESSLY: This bill was sponsored at the request of the municipal association. It is an effort to clarify the language regarding town government. The body of the bill clarifies when an issue should be placed on the official ballot and when it should be placed at the meeting. The amendment was the only area that seemed to be unclear and people from the Secretary of States office and the municipal association actually proposed the language and it regards the bonds. They felt it would be very, very important that the issuance of bonds or notes not be placed on the official ballot. It was the unanimous feeling of the committee that this was a positive clarification, that it will hopefully eliminate any confusion or misinterpretation, so that the town governments will understand, more precisely, when an issue is appropriate on a ballot and when it is appropriate to be discussed and potentially amended at a town meeting. The committee recommends ought to pass with amendment.

Amendment to SB 288-FN

Amend RSA 39:3-d as inserted by section 1 of the bill by inserting after paragraph III the following new paragraph:

IV. Articles concerning the issuance of bonds or notes shall not be placed on the official ballot.

Amendment adopted. Ordered to Third Reading.

SB 249, relative to hawkers and peddlers. Inexpedient to Legislate. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: SB 249 relates to hawkers and peddlers. After the initial hearing on the bill, in which testimony indicated that the intent of this bill could be better addressed in HB 705, the committee voted SB 249 as inexpedient to legislate. This was agreeable to the sponsor.

Adopted.

SB 243-FN, reinstating the passenger tramway safety board. Ought to Pass. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: SB 243-FN, reinstates the passenger tramway safety board, which was abolished last year by HB 526. Its duties were then assumed by the commissioner of safety as part of the reorganizational program. Current members are well qualified and have served at this board for several years with very little, if any, expense to the state. If we reinstate this board, it has been determined that the fiscal impact will increase state expenditures by \$197 dollars in 1989 and approximately \$200 per year thereafter adjusted by a 2% annual increase. This board is essential and relates to safety on our ski slopes. In the event of an emergency situation under the current set up, serious delay could occur and perhaps cost a life. This could happen because the board, as it exists now, has no authority in a case of a serious deficiency and could not act until they obtained the approval from the director of public safety or his designee. The members of this board are very conscientious and spend much of their own time and money conducting their work. They maintain high standards within the industry and they are constantly trying to upgrade lifts to insure the safety of the same. They do not want to serve without rule making authority. Many of the safety standards adopted by various ski resorts throughout the country are the result of the standards set by this board for the State of New Hampshire, making it a leader model amongst the industry. It is our

understanding that the inclusion of the passenger tramway safety board in HB 526 was an oversight, and the intent of that bill was not to strip the authority from the board. Members of the industry felt that they will have a difficult time finding qualified members of serving the board either in advisory capacity without authority and particularly members who are available seven days a week, 24 hours a day without compensation. We urge you support the Executive committee's recommendation to SB 243, as ought to pass.

Adopted. Ordered to Third Reading.

SB 300, relative to local regulation of excavations and certain highway construction vehicles. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: SB 300 merely establishes a study committee to look at all aspects of regulation of excavations and certain highway construction vehicles. Basically the whole bill was amended out and the study committee was inserted in its place.

Amendment to SB 300

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a committee to study all aspects of laws,
rules and practices relative to materials used
in the construction of highways.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established.

I. There is hereby established a legislative study committee to study the operation, administration and economic impact of existing laws, rules and practices relative to the availability, accessibility and cost of materials used or required in the construction of highways in the state. The committee shall consist of 3 members of the senate appointed by the president of the senate and 3 members of the house of representatives appointed by the speaker of the house of representatives. The chairman and vice-chairman of the committee shall be elected by the members of the committee.

II. The committee members shall be entitled to legislative mileage when performing duties for the committee.

III. The committee shall report its findings and recommendations to the president of the senate and the speaker of the house of representatives on or before December 1, 1988.

2 Effective Date. This act shall take effect upon its passage.
Amendment adopted. Ordered to Third Reading.

Recess

Out of Recess

Senator Dupont in the Chair.

SB 268-FN, relative to litigation of small claims. Ought to Pass. Senator Podles for the Committee.

SENATOR PODLES: SB 268-FN raises small claims court limit to \$2,500, it's an inflationary factor. This increase is necessary as most attorneys will not litigate cases unless they are \$5,000 or more. Small businesses would be able to pursue more delinquent accounts that are now written off as bad debts. This is turn will increase the New Hampshire profits tax. The committee recommends ought to pass.

Adopted. Ordered to Third Reading.

SB 274-FN, relative to the alteration of firearms. Inexpedient to Legislate. Senator Nelson for the Committee.

SENATOR NELSON: The bill was requested by the law enforcement personnel in Nashua. While the idea was to match federal fire-arm laws with state, the bill unfortunately didn't do that. At the hearing it became clear that this is a very complex area to regulate, and while the idea has merit the bill is not workable.

Adopted.

SB 240-FN, relative to unnatural and lascivious acts. Inexpedient to Legislate. Senator Podles for the Committee.

SENATOR PODLES: SB 240-FN is too vague to withstand constitutional scrutiny. The unnatural and lascivious acts prohibited needs sufficient specificity. Another potential problem is the possible unconstitutional invasion of privacy between married persons in a marital relationship. Enforcement will be almost impossible. The committee recommends inexpedient to legislate.

Senator Chandler moved to substitute Ought to Pass.

SENATOR CHANDLER: On this bill there were two members of the judiciary committee, Senators Roberge and Pressly, not present. Senator White, Senator Podles, Senator Nelson and myself were there. This is a bill that was sponsored by me. The reason that I put it in was, last session in the legislature there was a bill in to take out the act of adultery, to remove it from the law, as these two acts had been previously removed from the law five or six years ago. At one time, these three acts were illegal in New Hampshire. They wiped out two of them and they had been in there probably for 100 years and I don't think anybody questions the constitutionality of them. I don't think anybody questioned whether it would be hard to enforce, because the acts would probably be done in private but, I don't think that is a good valid reason for doing away with a law because it is hard to enforce. Lots of times there are plenty of laws that are hard to enforce but, we don't wipe them off the book, just because they are hard to enforce. The vote of the four members of the committee that were present was 3 to 1 in favor of inexpedient to legislate, and to not put these back in the law again. I don't see any harm in putting it back. The people that testified against this bill was first, a homosexual professor from the Franklin-Pierce Law School here in Concord. He gave quite a long talk and he has appeared before the committee on other bills relating to homosexuals. He is an open and avowed, declared homosexual; there is no secrecy about him. He spoke against it and said nobody had any right to tell him what he is to do in the privacy of his bedroom. Well, I think that is a false argument also, because suppose he murdered somebody in the privacy of his bedroom, you mean to say that people wouldn't have any occasion to bring a charge against him for killing somebody in his bedroom?

The second person to speak, I believe, was a female and she started off her testimony by saying that she is a lesbian. She also came from the same law school as the homosexual did and she gave about the same reasons as he gave.

The next person, that I can remember, was Claire Ebel who always comes and speaks on the wrong side of every bill that comes up before the Judiciary Committee. We almost want to make her a member of the committee.

The fourth person that spoke was another woman, as a lobbyist. She frequently appears and opposes anything that tries to improve the morals of the state.

As far as I know, I believe that everybody in this room is a Christian. The Bible says that these acts are a sin. I don't know if anybody believes in a sin anymore now or not, but that's the Christian theology; it condemns these and that is why God destroyed Sodom and Gomorrah, because they were evil immoral cities that he wiped them off the face of the earth. Many places in the Bible, I can't quote you from what verse and chapter, but it condemns this type of immorality. It says that men shall not sleep with men and so forth and so on. I was very surprised with the three fellow members on the Judiciary committee sided with the homosexuals instead of siding with me in trying to maintain morality. I was really shook up about it and I had some ideas that I ought to get off that committee. I thought better of it, because I didn't want to be called a quitter, but I was considering resigning from the judiciary committee that they would go along with this homosexual man and this lesbian women. I guess that is about all I have to say.

SENATOR PRESTON: I am a member of that committee and I was not in the room at the time the bill was heard. Senator, I have known you for a many years and I know that you are a dedicated Senator but, in the last session we did vote in this chamber to keep adultery on the books. I think it is regrettable that once again, I think you have put your foot in your mouth, that everyone in this chamber is not a Christian and everyone in the Senate as a member is not a Christian. I'm sorry that you have introduced that into the discussion. Just for the record as a member of that committee, I do support the committee report.

Motion lost.

Committee Report Adopted.

SB 273, relative to Capital Murder. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: Basically, what this bill does is, it extends the definitions of the criminal deaths requiring the death penalty, which in this state is lethal injection, by request of the department of corrections. Basically, the one extension that it makes, is that any person who is incarcerated for life term and then commits a crime, he then is found guilty of capital murder.

The second part of the bill has added one more law enforcement officer to the others, that were previously covered, and that is a probation parole officer. The amendment is on page six of the bill,

and what it does is eliminates from line six of the bill; pursuant to RSA 630:1-A III, and the reason we have eliminated referencing back to that section in the statute is because occasionally we have life term prisoners from other states who would not be covered by that particular statute. So that if someone came in from Connecticut and was in our state prison here in Concord and killed someone, if we left that in they would not be covered by the private provision of the law. The second amendment was to make it effective upon passage. I urge your support.

SENATOR MCLANE: Senator White, if I'm opposed to capital punishment, how would you suggest that I vote on this amendment?

SENATOR WHITE: If you are opposed to capital punishment, you would vote no. If you support capital punishment, you would vote yes.

Amendment to SB 273

Amend RSA 630:1, I(d) as inserted by section 1 of the bill by replacing it with the following:

(d) Another after being sentenced to life imprisonment without parole.

Amend the bill by replacing section 3 with the following:

3 Effective Date. This act shall take effect upon its passage.
Amendment adopted. Ordered to Third Reading.

SB 299-FN, relative to deeds. Ought to Pass. Senator Pressly for the Committee.

SENATOR PRESSLY: The committee voted this bill ought to pass. The bill eliminates two words, the words "sealed and attested". In 1977 the legislature eliminated the requirement for seals of these mortgages and related real estate recorded documents. However, in the boundary line chapter, there was a requirement that boundary line agreements required a seal. Due to an oversight the word "sealed" was not removed in this section. This inconsistency has caused some confusion since it is the only recorded document that now requires a seal.

Regarding the second change in the bill, in 1981 the legislature eliminated the requirement that deeds be attested, they only needed to

be acknowledged. The word was taken out under the section requirements for deeds, but was not taken out in this section validity of deeds.

The committee feels this bill is a housekeeping measure and will make the laws consistent.

Adopted. Ordered to Third Reading.

SB 282-FN, eliminating exemptions from turnpike tolls. Inexpedient to Legislate. Senator Preston for the Committee.

SENATOR PRESTON: It was determined by the committee that this is an absolutely ridiculous bill that would have eliminated exemptions from turnpike tolls for everyone. Imagine, if you will, people who work on the turnpikes, having to go to work to pay their tolls to get to the office. Imagine, if you will, charging every police car from every town. I think it violates the constitutional convention that says you won't mandate cost to the towns. With all due respect to the sponsors, I think it was a political bill. It doesn't save any money. We got people working in this chamber and next door for \$100 dollars a year, a lot of them very dedicated and to charge them tolls I think would be an insult. I respectfully request that you vote this inexpedient to legislate. We will have another bill before you next week where the legislature determines who is exempted from tolls.

SENATOR HOUNSELL: First of all, no one by law, Senator Preston, in this state other than legislators with a car with a plate on it, are permitted through a toll booth. Not a police officer, not a highway man, no one who works at the toll booth, none of them are exempt by law. The only ones who are exempt by law are the people who are elected to the general court while they are in a car with a plate on it. This was not, as you indicated, a political thing. This was a starting point because as this issue came up a lot of different legislators were looking one way or the other on which to go. I saw the flood gates open from one bill that was introduced in the House, that would allow practically everyone to go through the toll booths free. This was not a political introduction of a bill. This allowed for legislators to be reimbursed while they are on legislative business for the tolls that they incur, which I think would be an appropriate thing. However, I find it a little bit disagreeable that any member of the general court would behold themselves in a higher position of citizenship than the people who elected them to come down here to

serve them. I am a little bit disappointed that the elitist attitude, that I just heard from the Senate Chairman of the Transportation, would be spoken on these floors. To be in the Senate is an honor and a privilege and we are here to serve people, not to ride the interstates as though we are princes of some feudal land with higher rights than the citizens we serve. I do support the committee report because I do think that this issue has been cleared up in another bill that we will be hearing next week. I just hope that everyone is listening to the true intent behind this bill. Thank you.

SENATOR NELSON: Senator Hounsell, do you have any toll booths in your district?

SENATOR HOUNSELL: I have toll booths in the State of New Hampshire and I think it is unfortunate that many members of the general court feel that the north country is not part of this state.

SENATOR NELSON: The question was, do you have a toll booth in your district? Not is the north country a separate part of the state.

SENATOR HOUNSELL: I use the Hooksett toll booth several, several times. Many times I'm in my truck and I pay the fifty cents. To answer your question correctly, no I don't have a toll booth in my district.

SENATOR NELSON: How much do you think it would cost to provide the receipts from the 424 members of this body to put this bill in place?

SENATOR HOUNSELL: I don't believe it would cost a cent.

SENATOR PODLES: Senator Hounsell, would you believe that I would have to give my whole salary of \$100 dollars a year for the tolls that I pass through the Hooksett toll gate?

SENATOR HOUNSELL: No, I wouldn't believe that.

SENATOR HEATH: Senator Hounsell, with all regards in view of what you said about the north country, I wanted to ask you so that it would be clear. Do we in the north country really want to be equal to the point of having toll booths placed up there?

SENATOR HOUNSELL: I think, Senator Heath, that that isn't the point. I think the point is that we had an issue that came up where everyone was going to be allowed through the toll booth because

there was some confusion of what the law read. Again, I support Senator Podles' and Senator Nelson's committee report. I think that it is wrong, but I think it spoke to a position that hasn't been spoken to and that the bill that has been worked out that is coming in will address it better and I think that everyone will like it. My purpose of introducing this bill wasn't that I felt left out because I happen to live up in a district that has trees and not asphalt. But that the problem is a problem of conservative fiscal restraint. That is going to be tied together with a bill that we have next week. I think it is, again, unfortunate that this is being looked at as the north country southern tier bill.

SENATOR NELSON: Any question that I ask should be reduced to a problem between the north and the south is just absolutely not true. I want to make that perfectly clear for the record having supported the other Senator from the northern tier just a little while ago.

Adopted.

SB 253, relative to the length of vehicles. Ought to Pass with Amendment. Senator Preston for the Committee.

SENATOR PRESTON: There is an amendment on page 5, it says for single unit vehicle or bus, the length should be forty feet including front rear end bumpers. Actually the way the original bill was put together, it said, of any vehicle or combination of vehicles. This would have had an adverse impact on the mobile homes you see going over the road, in fact some of the box trailers we see are rather large. This merely corrects it, a lot of the tractor trailers of 37 feet on the road now, and the 40 feet amendment corrects the bill, causes problems for no one.

Amendment to SB 253

Amend the bill by replacing section 1 with the following:

1 Length. RSA 266:11, I is repealed and reenacted to read as follows:

I. For a single unit vehicle or a bus, 40 feet including front and rear bumpers.

Amendment adopted. Ordered to Third Reading.

SB 338-FN-A, relative to a statewide plan for public and private transportation and making an appropriation therefor. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR: The amendment has two changes and those are both dates that make it more realistic to comply with. The amendment address' the two date changes which are realistic as far as completion of studies.

SENATOR JOHNSON: Senator Torr, what did we do with the effective date now?

SENATOR TORR: It still takes effect upon passage. That doesn't change, that's still a part of the original bill.

Amendment to SB 338-FN-A

Amend the bill by replacing sections 3 and 4 with the following:

3 Report. The administrator of the office of public transportation shall submit the findings of the transportation planners together with recommendations and estimated costs to the governor, president of the senate, and speaker of the house of representatives no later than June 30, 1989.

4 Appropriation. The sum of \$75,000 for the fiscal year ending June 30, 1988, is appropriated to the office of public transportation, department of transportation, for the purposes of this act. This appropriation shall not lapse until June 30, 1989. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

Amendment adopted. Referred to Finance (Rule #24)

SB 246, relative to the sale of liquor in convention centers and first class ballrooms. Ought to Pass. Senator Stephen for the Committee.

SENATOR STEPHEN: The law did not account the difference between legally being and no longer a minor at 18 years or older and legally being of drinking age. What it does is, it makes it clear that a person 18 years of age or younger may attended any such time as liquor and such beverages are being sold, as long as they are accompanied by a parent or a guardian who is 20 years or older.

Adopted. Ordered to Third Reading.

SB 272-FN, relative to placing a state liquor store on Route 101 west of the city of Nashua. Inexpedient to Legislate. Senator Chandler for the Committee.

SENATOR CHANDLER: This bill was really to have a study made as to the financial feasibility of locating a store in west Nashua. The employees of the liquor commission said they are making studies all

around, looking to see if they could locate a store around and they would naturally make a study anyway without the necessity of having a bill to tell them to make a study. They would make a study and they would decide on it and if they prove that they thought it would be profitable, they would open up a store on Route 101 in west Nashua. The committee voted unanimously for inexpedient to legislate.

Adopted.

SB 329-FN, establishing a study committee to study Monte Carlo nights, Las Vegas nights, bingo games, and lucky 7. Ought to Pass with Amendment. Senator Roberge for the Committee.

SENATOR ROBERGE: SB 329-FN establishes a committee to study Monte Carlo nights, Las Vegas nights, bingo games, and lucky 7 and they want to look at the current situation and try to improve it. The amendment simply allows the committee to elect a chairman from its group, rather than have the chairman a representative from the department of safety.

Amendment to SB 329-FN

Amend section 1 of the bill by replacing it with the following:

1 Committee Established. There is hereby established a 9-member committee, consisting of 2 members of the senate, appointed by the president of the senate; 2 members of the house of representatives, appointed by the speaker of the house of representatives; one member from the department of safety, appointed by the commissioner of safety; the executive director of the sweepstakes commission; one member from the attorney general's office, appointed by the attorney general; and 2 members from the general public, appointed by the governor. The committee shall elect a chairman from its membership. The committee's study shall include, but not be limited to, alternatives to the current licensing and enforcement of the various games of chance, including so-called Monte Carlo nights and Las Vegas nights, bingo, and lucky 7; whether or not the current statutes relative to these activities need further changes; and any other matters relative to these activities that may be of concern to the committee. The committee members shall serve without compensation, but the legislative members shall receive legislative mileage. The committee shall report its findings and recommendations for further legislation to the president of the senate, the speaker of the house of representatives, and the governor, on or before December 1, 1988.

Amendment adopted. Ordered to Third Reading.

TAKEN FROM THE TABLE

Senator Johnson moved to take HB 231-FN off the table.

Adopted.

HB 231-FN, relative to updating master plans once every 5 years. Interim Study. Senator Johnson for the Committee.

SENATOR JOHNSON: The original recommendation from the committee was for interim study on this measure and that still is the case. It was laid on the table at my request because I didn't really have all the notes that I wanted at that particular time, and I do have them now. The bill basically called for planning boards to review and update their master plans at least every 5 years. That idea, basically, has a good deal of merit. However, there was an absence of consensus as to whether or not it should be five years or six years or ten years. There was a good deal of disagreement over the actually period of time involved. Secondly, at least one member of the committee raised the question as to whether or not this was unfunded state mandate? Those are the two main reasons for interim study. However, I would like to share with this body that there was testimony regarding the importance of this state setting some sort of a guideline in this statute and the primary beneficiary of that would be the municipalities themselves. As it is right now, they are open to some law suits if they don't review and update their master plans periodically. Having said all that I think there is enough question about this bill to warrant interim study.

Adopted.

INTRODUCTION OF SENATE BILL

Approved by the Joint Rules Committee after the deadline.

First and Second Reading and Referral

SB 355, relative to the distribution of sweepstakes revenues. (Senator Hough of Dist. 5, Senator Dupont of Dist. 6, Senator Torr of Dist. 21, Senator Blaisdell of Dist. 10, and Senator St. Jean of Dist. 20, Rep. Kidder of Merr. 2, Rep. Hager of Merr. 21, Townsend of Graf 13, Rep. LaMott of Graf 5 and Rep. Matson of Ches. 7 - To Finance)

RESOLUTION

Senator Hounsell moved that the Senate now adjourn from the early

session, that the business of the late session be in order at the present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Tuesday, January 26, 1988 at 1:00 p.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

SB 267-FN, relative to child passenger restraints in motor vehicles.

SB 245, limiting the horsepower of boat motors on Long Pond in the town of Northwood.

SB 257, extending the reporting date of the biomass study committee.

SB 277, prohibiting the hunting of mourning doves in New Hampshire.

SB 261, relative to setting seasons and bag limits on small game birds and animals.

SB 258, relative to boating restrictions on Little Diamond Pond in the town of Stewartstown.

SB 288, relative to placing articles on the official ballot.

SB 243-FN, reinstating the passenger tramway safety board.

SB 300, establishing a committee to study all aspects of laws, rules and practices relative to materials used in the construction of highways.

SB 268-FN, relative to litigation of small claims.

SB 273, relative to Capital Murder.

SB 299-FN, relative to deeds.

SB 253, relative to the length of vehicles.

SB 246, relative to the sale of liquor in convention centers and first class ballrooms.

SB 329-FN, establishing a study committee to study Monte Carlo nights, Las Vegas nights, bingo games, and lucky 7.

Senator Hounsell moved to adjourn.

Adopted

Adjournment

Tuesday, January 26, 1988

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Help us Lord, as we often times pit our own will against God's will and His people. In this light and the events of our own lives - and the situations under which many people suffer. Help us to persevere in our work and outlook.

Amen

Senator St. Jean led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

COMMITTEE REPORTS

SB 265-FN, relative to the operation of a bank acquired in a consolidation. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: SB 265 originally started out as a bill that took out a provision in the existing law that when a bank is acquired, or a bank acquires a bank in an acquisition, that the banking commissioner and board of trust has to approve the ability to designate a branch in that particular bank's operations. As a result of action of the committee, we approved that part of the bill and also as you will see in the amendment, raise the banking commissioner's fees to an adequate level to support his operation. It's been a few years since these fees were raised and we felt it appropriate at this point in time to allow him to raise adequate revenue to support his operation.

AMENDMENT TO SB 265-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the operation of a bank acquired in a
consolidation and to banking department
fees and requirements.

Amend the bill by replacing all after section 1 with the following:

2 Licensing of Sales Finance Companies and Retail Sellers:
Amend RSA 361-A:2, III to read as follows:

III. The license fee for each calendar year or part thereof shall be as follows:

(a) For a retail seller, the sum of [~~\$25~~] \$50 for the principal place of business of the licensee within this state and the sum of [~~\$15~~] \$30 for each branch of such licensee maintained in this state.

(b) For a sales finance company, the sum of [~~\$175~~] \$350 for the principal place of business of the licensee within this state, and the sum of [~~\$50~~] \$100 for each branch of such licensee maintained in this state. A person required to obtain a license under the provisions [hereof] of this section shall not be required to obtain a license as a retail seller.

(c) Sums collected under this section shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the consumer credit administration division.

3 Payment of Costs of Examination of Financial Institutions.
Amend RSA 383:11, I to read as follows:

I. From each such institution examined a sum equal to the product of the average daily rate of pay of all examining personnel employed in making examinations pursuant to the provisions of RSA 383:9, multiplied by the number of man days devoted to the examination of the particular institution, provided, however, that no such institution shall be charged or pay for less than one full day. Sums collected under this section shall be payable to the state treasurer as restricted revenue and credited, in accordance with the banking department's program appropriation unit designation, to the appropriation for the bank commissioner or the consumer credit administration division.

4 Annual Audits; State-Chartered Financial Institutions. Amend RSA 384:43, III(c) to read as follows:

(c) Entering into an arrangement with the bank commissioner, approved by the directors by duly recorded vote and by the commissioner in writing, under which the commissioner makes one examination each year of the affairs of the institution. The expense of such examination shall be chargeable to and paid by the institution. The

procedure for such payment shall be the same as for payments by institutions for cost of examinations under RSA 383:11. Sums collected under this section shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the bank commissioner. Any such arrangement may be terminated by either party upon at least 30 days notice in writing.

5 Regional Affiliation; Application Fee. Amend RSA 384:50 to read as follows:

384:50 Application Fee. Each applicant filing an application under RSA 384:48 shall pay an initial nonrefundable application fee of \$10,000 and such additional amounts as determined by the board of trust company incorporation as are necessary for a full and complete examination of the application, the applicant and the bank or bank holding company to be acquired. Sums collected under this section shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the bank commissioner.

6 Monitoring of Certificate Holders; Examination Expenses. Amend RSA 384:51, I to read as follows:

I. Each bank and New Hampshire bank holding company with which a certificate holder has become affiliated shall provide reports and permit examinations of its records to the extent considered necessary by the commissioner to monitor and enforce the provisions of this subdivision and if applicable shall continue to be regulated as it was prior to its affiliation. The commissioner shall require reports and perform examinations of such certificate holders and acquired New Hampshire banks or bank holding companies affiliated hereunder on a periodic basis and shall assess fees for the cost of examination. The expense of such examination shall be chargeable to and paid by the institution. The procedure for such payment shall be the same as for payments by institutions for cost of examinations under RSA 383:11. Sums collected under this section shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the bank commissioner.

7 Applications for Branch Offices; Fees. Amend RSA 384-B:2, III to read as follows:

III. Written applications for branch offices shall be submitted by the bank, in the first instance, to the commissioner and shall be verified under oath and made upon forms which may be prescribed by him for the purpose with all the information required by such form fully set forth thereon, including the types of service to be offered at such branch office. Each application shall be accompanied by a fee of [~~\$750~~] \$1,500 in the case of a new branch and [~~\$1,000~~] in the case of a new branch as a result of consolidation, payable to the state treasurer; for the credit of the commissioner] one single fee of \$1,500

for the composite of all branches. The commissioner shall investigate and examine each application and if he finds that it is duly completed, he shall then refer the application to the board for consideration. A notice stating the date before which objections may be filed shall then be published by the petitioner in such form as the board may order. Any interested person or corporation may, within the time specified, file with the board a statement of objection to the granting of such application. Said board may, upon request of any interested person or corporation, or at its own discretion, order a public hearing, or may approve said application without a hearing. If a public hearing is to be held, the petitioners shall cause to be published such notices as the board may order. Said hearing shall be held at the time and place fixed by the board. The board shall keep a permanent verbatim record of all such evidence. The commissioner shall serve as chairman of the board. The board may prescribe reasonable procedural rules to govern its proceedings, and it may be convened to consider any pending business on call of the commissioner. There shall be no refund allowed on any application fee once it has been filed. In addition to the application fee, each applicant for a branch office shall be obligated to pay the reasonable cost of processing, hearing and deciding each such application, as assessed by the board, which cost may be collected by the commissioner in an action of debt unless paid within 30 days after demand. Sums collected under this section shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the bank commissioner.

8 Incorporation of Savings Banks; Petitions. Amend RSA 386-A:4, I to read as follows:

I. A petition requesting approval of the proposed incorporation shall be filed with the bank commissioner. The petition shall be upon such form as may be prescribed by the bank commissioner and shall contain all the information required by such form, signed and verified under oath by the incorporators, to which shall be annexed a signed duplicate of the articles of agreement. An examination fee of [\$750] \$1,500, [payable to the bank commissioner,] shall be paid when the petition is filed. Sums collected under this section shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the bank commissioner. [and may be used to defray the expenses of the proceedings on the petition, any remaining balance to be paid to the state treasury for the credit of the bank commissioner.] The bank commissioner shall examine each petition and if he finds that it is duly completed, he shall forthwith refer the petition to the board of trust company incorporation. The bank commissioner shall then make such investigation of each petition as he

considers expedient, for the purpose of more fully informing the board. Said board may, upon request of any interested person or corporation or at its own discretion, order a public hearing, or may approve said petition without a hearing. The petitioners shall cause to be published such notices relating to the petition as the board may order.

9 New Paragraph; Chartering of Subsidiary Guaranty Saving Banks; Examination Fees. Amend RSA 386-B:9 by inserting after paragraph IV the following new paragraph:

V. An examination fee of \$1,500 shall be paid when the petition is filed. Sums collected under this section shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the bank commissioner.

10 Trust Companies; Petition; Examination Fees. Amend RSA 392:5 to read as follows:

392:5 Petition. A petition setting forth said agreement of association or [the] its terms [thereof], signed by the subscribers [thereto] to the agreement and praying for a decision of the question whether the public convenience and advantage will be promoted by the establishment of such corporation, shall be filed with the board of trust company incorporation. An examination fee of [\$750 payable to the bank commissioner] \$1,500 shall be paid when the petition is filed [and may be used to defray the expenses of the proceedings on the petition and any remaining balance shall be paid to the state treasury for the credit of the bank commissioner]. Sums collected under this section shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the bank commissioner. Upon receipt of said petition the bank commissioner shall cause to be made a complete and exhaustive field investigation based upon a thorough analysis of the factors on which a decision of approval or denial is based. These factors shall include but not be limited to the 5 factors as given in RSA 392:8.

11 Nondepository First Mortgage Bankers; License Application Fees. Amend RSA 397-A:5, II(b) to read as follows:

(b) Each license application shall be accompanied by a nonrefundable application fee of \$250 for each separate office location within this state to be licensed. Any applicant licensed prior to July 1, 1987, shall not be required to pay a new application fee, but shall pay a renewal fee under RSA 397-A:8. Sums collected under this subparagraph and RSA 397-A:8, III shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the bank commissioner, [small loan and vehicle finance division] consumer credit administration division.

12 Nondepository First Mortgage Bankers; Examinations. RSA 397-A:12, V is repealed and reenacted to read as follows:

V. The expense of such examination shall be chargeable to and paid by the licensee. The procedure for such payment shall be the same as for payments by institutions for cost of examinations under RSA 383:11. Sums collected under this section shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the bank commissioner, consumer credit administration division.

13 Second Mortgage Home Loans; License Fees. Amend RSA 398-A:1-a, III to read as follows:

III. The license fee for each calendar year or part thereof shall be \$250. Sums collected under this paragraph shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the bank commissioner, [small loan and vehicle finance division] consumer credit administration division.

14 Second Mortgage Home Loans; Cost of Licensee Examinations. RSA 398-A:1-d is repealed and reenacted to read as follows:

398-A:1-d Cost. The commissioner may make such an examination of the affairs, business, office and records of any licensee. The expense of such examination shall be chargeable to and paid by the institution. The procedure for such payment shall be the same as for payments by institutions for cost of examinations under RSA 383:11. Sums collected under this section shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the bank commissioner, consumer credit administration division.

15 Small Loans; Licensees; Examinations. Amend RSA 399-A:20, III to read as follows:

III. For the purpose of this section, the commissioner or his duly authorized representative shall have and be given free access to the office and places of business, files, safes and vaults of all such persons, and shall have authority to require the attendance of any person and to examine him under oath relative to such loans or such business or to the subject matter of any examination, investigation or hearing, and shall have authority to require the production of books, accounts, papers and records of such persons [, and shall require from each such licensee examined a sum equal to the product of the average daily rate of pay of all examining personnel employed in making examinations, multiplied by the number of man days devoted to the examination of the particular licensee, provided, however, that no such licensee shall be charged or pay less than one full day]. The expense of such examination shall be chargeable to and paid by the institution. The procedure for such payment shall be the same as for payments by institutions for cost of examinations under

RSA 383:11. Sums collected under this section shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the bank commissioner, consumer credit administration division.

16 Debt Adjustors; Licensee Examinations. Amend RSA 399-D:10 to read as follows:

399-D:10 Annual Examination of Affairs of Licensee. The commissioner shall examine without notice the condition and affairs of each licensee at least once each year. In connection with any examination, the commissioner may examine on oath any licensee, and any director, officer, employee, customer, creditor or stockholder of a licensee, concerning the affairs and business of the licensee. The commissioner shall ascertain whether the licensee transacts its business in the manner prescribed by law and the [regulations issued hereunder] rules adopted under this chapter. [The licensee shall pay the actual cost of the examination as determined by the commissioner, which fee shall be deposited in the state treasury to the credit of the general fund.] The expense of such examination shall be chargeable to and paid by the licensee. The procedure for such payment shall be the same as for payments by institutions for cost of examinations under RSA 383:11. Sums collected under this section shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the bank commissioner, consumer credit administration division. Failure to pay the examination fee within 30 days of receipt of demand from the commissioner shall automatically suspend the license until the fee is paid. In the investigation of alleged violations of this chapter, the commissioner may compel the attendance of any person or the production of any books, accounts, records and files used therein; and may examine under oath all persons in attendance pursuant thereto.

17 Repeal. RSA 394-A:8, relative to the powers of state-chartered financial institutions to establish branch offices, is repealed.

18 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted. Ordered to Third Reading.

SB 242-FN, to provide funding for the sewage disposal system of the towns of Exeter and Monroe. Ought to Pass with Amendment. Senator Preston for the Committee.

SENATOR PRESTON: The amendment can be found on page 6 of today's calendar. If you recall in the last session we had a list of those cities and towns that were under the gun by EPA for the needs for

secondary treatment of their sewage and water supplies and Exeter and Monroe were cut off the list. This bill is a real different approach. The selectmen have met with the Department of Environmental Services, they have met with the Governor, they met before the committee, the amendment is really a first. The towns of Exeter and Monroe will borrow 80% of the sewage funds from a revolving fund and pay the monies back to the State upon completion of the project, on a period of 1-6 years or 7-30. If they pay back within a year they pay one percent and it's an escalating scale. It's really a first for the communities, by saying look, we're going to spend our monies and get out there and get this project done. They're standing with a gun at their heads by the Federal EPA and I urge approval of this amendment today for the two towns that should have been on the list last year.

Amendment to SB 242-FN

Amend the title of the bill by replacing it with the following:

AN ACT

making an appropriation for the sewage treatment
facilities for the towns of Exeter and Monroe.

Amend the bill by replacing all after the enacting clause with the following:

1 Appropriation; Exeter and Monroe Sewage Treatment Facilities.

I. In addition to any other sums appropriated, there is appropriated for the biennium ending June 30, 1989, a sum not to exceed \$4,400,000 to PAU 03,04,03,01,01, pollution control program, department of environmental services, for the purpose of providing loans of 80 percent of the proposed cost of secondary sewage treatment facilities for Exeter with a total project cost not to exceed \$4,500,000, and for Monroe, with a total project cost not to exceed \$1,000,000. Allowable project costs shall be limited to those items included in the definition of "construction" under RSA 149-B:1. Said appropriation shall be nonlapsing. Said loans are to be made to provide for payments upon completion and final acceptance of said projects by the department of environmental services, but said loans may be made based on an agreed upon payment schedule established in the construction contracts and subsequent to certification by the department of environmental services with the prior approval of the governor and council. Loans may be for terms of not more than 20 years and shall bear interest as follows:

Year 1	1 percent
Year 2	2 percent
Year 3	3 percent
Year 4	4 percent
Year 5	6 percent
Year 6	8 percent
Years 7 through 20	10 percent

Each loan agreement shall be prepared for execution by the office of the attorney general and shall be subject to final approval of the governor and council.

II. Nothing in this act shall affect the operation or implementation of the revolving loan fund established by RSA 149-B:12.

2 Effective Date. This act shall take effect upon its passage.

Amendment adopted. Referred to Finance (Rule #24)

SB 247-FN-A, relative to phase II of restoration of the old state house and making an appropriation therefor. Ought to Pass with Amendment. Senator Krasker for the Committee.

SENATOR KRASKER: SB 247 is phase II of the restoration of the original colonial state house of the State of New Hampshire which is standing presently one-third of it in Portsmouth. In the last session of the legislature, you all voted to direct the director of historical resources to undertake the study, upon which the restoration would be based. The study has been done, it's completed. They've identified the area where the state house is going to be and so the Capital Budget committee has voted unanimously, five to nothing, to recommend this bill ought to pass, the appropriation will be directed to the division of historical resources to oversee the work.

Just a word about the state house. There are only five in the entire country, original state houses. It is probably our most important colonial building. Colonial representative government started there. This is going to be a wonderful, living history example for our New Hampshire children who study New Hampshire history. They're going to see it, not just read about it. Some one said to me, about the state house, that if we don't do this we we squander our inheritance and I hope you're going to feel that way. This is something for all of New Hampshire.

SENATOR DUPONT: Senator, would you believe that last year I voted against the study and after having had an opportunity to really take a hard look at what's being done down in Portsmouth, that I support this bill 100%?

SENATOR KRASKER: Thank you very much.

Amendment to SB 247-FN-A

Amend the bill by replacing section 4 with the following:

4 Project and Expenditure Requirements. Notwithstanding the provisions of RSA 4:8, the division of historical resources, department of libraries, arts and historical resources is authorized to receive and expend for the purposes of this act private gifts, bequests, grants and federal assistance, if available. The provisions of RSA 228 relative to competitive bidding and RSA 447 relative to performance bonds shall not apply to this project.

5 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted. Referred to Finance (Rule #24)

SB 301-FN-A, relative to the deadline for an environmental impact study for a 4-lane east-west highway from Concord to the Spaulding turnpike. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR: SB 301-FN-A provides for an environmental impact study which will consider a terminus north of exit 9 on the Spaulding turnpike. It establishes a deadline of June 30, 1989 for the study to be complete and it increases the ability to bond by two million dollars. The Department of Transportation, at present, is negotiating with a firm to perform this environmental impact study.

SENATOR CHANDLER: I'd just to go on record as being opposed to this bill because it has eliminated the possibility of a seventh route. I don't think that the seventh route should be excluded before the study has been completed. I think they ought to consider both, north and south routes.

SENATOR JOHNSON: I'm very pleased that Torr took the legislative bull by the horns and introduced this legislation as a person who was impacted by the procrastination. The apparent procrastination of the Department of Transportation who kept saying they were going to do this and for reasons unknown to me, it didn't happen even though the legislature appropriated the money to do this so, I think we need this and I commend Senator Torr for not being patient any longer.

Amendment to SB 301

Amend the bill by replacing all after the enacting clause with the following:

1 Appropriation. 1986, 203:8 is repealed and reenacted to read as follows:

203:8 Appropriation. The sum of \$1,000,000 is hereby appropriated to the department of transportation for the biennium ending June 30, 1987, for the purpose of an environmental impact study and preliminary design plans for a 4-lane east-west highway from Route I-393 in Concord, to a terminus north of exit 9 on the Spaulding turnpike. The New Hampshire general court directs the department of transportation to limit the study to a terminus north of exit 9 on the Spaulding turnpike. This shall be a non-lapsing appropriation and in addition to any other appropriation for the department of transportation for the biennium.

203:8-a Deadline. The department of transportation shall complete the study authorized by 1986, 203:8 by June 30, 1989.

203:8-b Supplemental Appropriation. Notwithstanding any other provisions of law, in case the expenditure of additional funds over those appropriated by 1986, 203:8 is necessary to implement that section, the governor and council, with the prior approval of the fiscal committee of the general court, upon request from the commissioner, may authorize the transfer of funds from the highway surplus account to the department of transportation for such purpose. Any funds transferred from the highway surplus account shall be reimbursed to the surplus account by the notes and bonds issued pursuant to 1986, 203:23, II.

2 Powers of Governor and Council. Amend 1986, 203:20 to read as follows:

203:20 Powers of Governor and Council. The governor and council are hereby authorized and empowered:

I. To cooperate with and enter into such agreements with the federal government or any agency thereof, as they may deem advisable, to secure federal funds for the purposes of sections 8, 8-b, 21 and 22 of this act.

II. To accept any federal funds which are, or become available for any project under sections 8, 8-b, 21 and 22 of this act beyond the estimated amounts. The net appropriation of state funds for any project for which such additional federal funds are accepted shall be reduced by the amount of such additional funds, and the amount of bonding authorized by sections 8, 8-b, and 22 of this act shall be reduced by the same amount.

3 Bonds. 1986, 203:23 is repealed and reenacted to read as follows:
203:23 Bonds.

I. To provide funds for the appropriation in section 22 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding \$2,500,000 and for said purpose may issue notes and bonds in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

II. To provide funds for the appropriations in section 8 and 8-b of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding \$3,000,000 and for said purpose may issue notes and bonds in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. The funds derived from the notes and bonds issued pursuant to this paragraph which exceed \$1,000,000 shall be used to repay the highway surplus account for the funds authorized by the fiscal committee and governor and council pursuant to 1986, 203:8-b.

4 Payments. Amend 1986, 203:24 to read as follows:

203:24 Payments. The payment of principal and interest of the bonds and notes issued for the projects in sections 8, 8-b, and 22 of this act shall be made when due from the highway fund.

5 Effective Date. This act shall take effect upon its passage.

Amendment adopted. Ordered to Third Reading.

SB 318-FN, establishing a committee to study the feasibility of establishing a New Hampshire zoological park. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: This bill establishes a committee to study the feasibility of establishing a New Hampshire zoological park on the site of the Bensen's Zoo. This requires the committee to report its findings by December 1, 1988.

The amendment that's on page 20 of your calendar, adds to that committee the director of Fish and Game or his designee.

Amendment to SB 318-FN

Amend paragraph I of section one of the bill by replacing it with the following:

I. There is established a committee to study the feasibility of establishing a New Hampshire zoological park on the former site of Benson's zoo in Hudson. The members of the committee shall include the following:

(a) Three members of the house of representatives, appointed by the speaker of the house.

(b) Three members of the senate, appointed by the president of the senate.

(c) The director of the division of parks and recreation, department of resources and economic development, or his designee.

(d) One public member, appointed by the governor.

(e) The executive director of the fish and game department or his designee.

Amendment adopted. Ordered to Third Reading.

SB 270-FN, relative to state monitoring of certain solid waste facilities. Inexpedient to Legislate. Senator Hounsell for the Committee.

SENATOR HOUNSELL: The committee took testimony on this bill. We do recognize that there is a need to monitor, some how - some time, but we don't feel now is the time. We're not certain as to how. The sponsors, Senator Torr and Senator Dupont, have requested that this would be inexpedient. They have addressed the issue and I think they are continuing to work with the department to solve this trouble.

Adopted.

SB 326-FN-A, establishing a New Hampshire rivers management and protection program and making an appropriation therefor. Ought to Pass with Amendment. Senator McLane for the Committee.

SENATOR MCLANE: I have asked to be passed out a pamphlet, which all of you have, with a picture on the front of it which literally says it all. Since I have been in the legislature, in 1969, the New Hampshire legislature has worked on a policy for its rivers. As the pamphlet says, the time has come and you have before you a much amended version of a rivers bill that came before our committee two or three weeks ago. The statement of policy, about that rivers bill, describes our rivers as historically vital to New Hampshire's commerce, industry, tourism and to the quality of life of New Hampshire people. There was no doubt on the committee that a river policy was needed in this state but, implementation of that policy is the problem before you today. A group of us worked very hard to take the objections that were brought up at the hearing by the municipal association, by Senator Bond and by the BIA.

The amendment, with the amendment that Senator Hounsell will offer, has gotten our rivers bill to a point where both the BIA and the municipal association and many Senators have decided that it is the time to go along with this bill. In essence, what it does is create a rivers coordinator within the Department of DRED. It creates it within the Department of Environmental Services. This was the department that was set up by this legislature to coordinate policies such as rivers. This is where the rivers coordinator should be. The bill designates nine rivers, we have taken out the lower Ammonoosuc and the Androscoggin because Senator Bond did not want them in the bill. We have taken out the entire question of repairing zoning of these rivers. The river bill before you merely asks for the establishment of a rivers coordinator, the establishment of a process whereby rivers could be designated for protection, the listing of nine rivers and a process for adding additional rivers. The appropriation has been changed to a dollar and as I have said, the time is now. Water quality in New Hampshire is threatened and if you want to wait two more years you're going to have many, many more problems than you do now. The process of creating new dams would be organized within the federal process now and it would protect our water quality. It is interesting, I believe, that the strongest support for this bill comes from those communities, such as Nashua, such as Concord and such as Manchester, where we already have complete zoning along their river banks. These cities need the protection of a river bill and so I would urge your support because, as the pamphlet said, the time has come.

SENATOR BOND: Regretfully, I rise in opposition to the committee report of ought to pass with amendment. The very fact that the amendment is as extensive as it is, the very fact that there are several floor amendments coming along to address this subject, are themselves the statement of why I believe and had wish that the committee had sent this to interim study with the opportunity to look at it again in January. My concerns, which the committee did address, had to do with issues that would not have come up had there been adequate planning that included the people in the 20% of the state that I geographically represent. Many of the concerns have been addressed but I don't even know what the impact is of this amendment now. I have not had the time nor have I had any research done on the actual impact of the language that you're addressing in this amendment. I also don't know what the other floor amendments would do. Should it not be, where it's such an important policy statement for the State of New Hampshire, that these issues be looked at by a committee and in January, when we're back

here again, we look at a comprehensive rivers bill that does address the concerns of everyone and takes into consideration the concerns of that part of the state that is going to be heavily impacted and has had no input. I would urge you to vote no on the motion and I will then make a motion to send this to interim study.

SENATOR CHANDLER: Senator McLane, you're an authority on rivers, I would like to ask why the Piscataquog River was not included? The Piscataquog Water Shed Association, which I'm a member, and they requested me to try to have their river included.

SENATOR MCLANE: I do not know why the Piscataquog River was not included originally. It is my impression that the rivers that were included in the original bill were rivers that already had zoning upon them such as the Merrimack River were rivers that were principle water sheds. I do know that Senator Torr has already added the Lamprey and the Isinglass River to the bill that Senator Pressly has an amendment which is being drafted and I am sure that if you would like to add the Piscataquog River, I'd be happy to have it.

SENATOR CHANDLER: No, not the Piscataquog, the Piscataquog which runs from Goffstown to New Boston and it's the Piscataquog Water Shed Association that's very much anxious to be included.

SENATOR MCLANE: I guess I'd have two answers to that; one, that it would be possible to put an amendment on. Secondly, the bill sets up a process where other rivers can be added. I've walked along that river and it's a beautiful river.

SENATOR CHANDLER: Without that river, would you believe, I can't vote for the bill?

SENATOR HOUNSELL: Senator Bond, knowing that we have a two chambered legislature and that this bill is beginning on its journey that will take it through the House, do you think there is a time for us to move ahead with what we have and then to allow for the legislative process, the other chamber to speak and make those amendments? In other words, don't you think that the people who have concerns after this bill passes, will have the opportunity to voice them?

SENATOR BOND: I'm sure that there is that process within the House however, it will come back to a committee of conference if there is a different bill and that is not the place to settle such a major policy issue as the management of the rivers and streams of the

State of New Hampshire. I think that the testimony here today that there are other bills coming in, are statements in themselves, that this bill has not been thoroughly prepared for legislation.

SENATOR HOUNSELL: Are you aware, Senator, that this bill only encourages a comprehensive river coordinator management plan, that its concern and the focus of this is the actual flow of water that's within the river?

SENATOR BOND: I don't have the depth of understanding of this bill to say yes or no Senator Hounsell.

SENATOR MCLANE: Senator Bond, would you believe that I do apologize to you. The amendment that we prepared was ready and I felt that it would be easier for you if I took the original bill and with a red pencil, wrote in the changes that we had made but, that I do apologize for the fact that you found that confusing. I worked very hard to make that amendment available to you on that day, in fact, we had someone run it over to your office because I felt that that would be more understandable.

SENATOR MCLANE: I apologize if I misunderstood. I thought that was your suggestion for an amendment, number one. Number two, yesterday I had someone research this whole place trying to locate what the actual amendment that was coming on the floor today was to be because I was unable to be in Concord.

SENATOR JOHNSON: Senator McLane, will this bill do anything to hasten the day when raw sewage from Manchester is not dumped into the Merrimack River?

SENATOR MCLANE: It absolutely will and I think that's an important point. You're going to have a rivers coordinator in this state. As it is now, there is no one that speaks for the rivers. If you have a problem with sewage in Manchester, you can go to the water pollution board, you can go to four different agencies and when you have a rivers coordinator you can go roaring to that person and say we've got a problem here and that person is dedicated to solving it. So, I think that's one of the reasons that we need it now.

SENATOR JOHNSON: You're, in a sense, asking me to put my faith in establishing a bureaucratic position in the Department of Environmental Services that will indeed stop the raw sewage from Manchester going into the Merrimack River. Is that what you're really saying?

SENATOR MCLANE: Yes, I believe that this bill is dedicated to keeping present river quality and improving river quality. That is a tremendous issue and one of the problems is is that there are at least six different agencies that now are in charge of our rivers. You're going to have one person, and that one persons job is to coordinate better river quality.

SENATOR JOHNSON: Senator McLane, will this bill do anything to prevent the location of city dumps along side important rivers like the Merrimack River as is the case in Concord now?

SENATOR MCLANE: The city of Concord does have zoning along the river and the city of Manchester and Nashua do. This bill would encourage other communities to have river banks zoning but, as I say, one of the compromises to make this bill palatable is that we took out the fact that rivers had to have river bank zoning.

SENATOR FREESE: I was a member of the committee that heard the testimony on this bill and at the time I was, I think, the only member that objected to its approval. I think that Senator McLane should be commended for being able to correct a bill to the extent that she has. I had two visitors yesterday who were still trying to correct anything that was remaining in the bill that was objectionable and they brought me an amendment that I understood was going to be in the calendar today, it may be coming along later, but I have to speak to the bill on the floor which is the bill that is printed in the calendar. I still have some problems. In a general way, I think the bill is massive in what it reports to do and I would prefer to see a bill that started out to be a pilot program with one river.

On page 28 of the calendar today, where we have the amendment, under RSA 221-B:7, roman numeral I, it states; no new dams, significant expansion of existing dams, interbasin transfer, or significant diversions or obstructions to the natural free-flowing qualities shall be permitted unless specifically authorized by the legislature. Well, that means that everything is objected to, not permitted unless there is a bill that comes through the legislature that gives permission. My question is, there's no provision here for repairing or maintaining existing dams. I think it's important that we know that we can go in and repair dams that spring a leak or get old and need repair. There's no provision for that in this bill. Number two, it says that water quality shall not be degraded from existing water quality standards and so forth. But, there's no specifics, there's just a broad statement and you've got to leave it to the people that are going to

be managing the bill to make up their minds what the parameters are. I'd like to see it down in black and white, I'd like to know what they mean when they say this. The office with the cooperation and assistance, that's under 221-B:8, Management Plan, the cooperation and assistance with the office of state planning, shall develop detailed recommendations for river corridor management guidelines. I just don't know what the guidelines are that they're going to be specifically working on. Then it says, encourage municipalities to develop and implement river corridor. That's all well and good. I think that the municipalities should have a lot of say in this but if they don't do it, who's going to do it? There's no specific answers to those things. I just think, overall, the bill is dangerous the way it is written, its been improved a great deal certainly. I'd like to see it go to interim study and have some of these questions answered.

SENATOR WHITE: Senator McLane, don't you think that it would be better, as Senator Freese has pointed out, that we start with one river as a pilot project to find out what the parameters are and where we're going?

SENATOR MCLANE: Senator White, all these questions about studying and doing one river at a time, I think begs the question of the urgency of this problem. Our rivers have just been cleaned up. Twenty years ago, land along the Merrimack River wasn't worth much except for corn land and the reason was that the river stunk! Now, we have beautiful rivers in this state at great expense and I just wish that I could convey to you the urgency of the need to have a river coordinator at the moment that our river land is suddenly becoming so valuable.

SENATOR WHITE: On my property I have several dams and Senator Freese has just raised the question, what does happen to existing dams and are we allowed to repair them?

SENATOR MCLANE: I will answer your question in a way that I was going to ask Senator Freese a question. We worked very hard with the BIA, over the weekend and over the end of last week. Senator Hounsell has an amendment which does not send new dams through the legislative process; he would like an opportunity to offer that amendment, which has bought the support of the BIA. Yesterday, those young men did drive out in the snow to Senator Freese to bring him that amendment and because I felt Senator Freese would be happy to know that the BIA was then supporting it. I'm sorry that he didn't understand that because the fact that it was finished

yesterday with the BIA, that there'd be a floor amendment. So, what I'm saying is if you have a dam that exists now, and you wish to make substantial changes in it, you would go through the federal process, which you would have to do now, but there'd be no change in the state process that you would go through.

SENATOR WHITE: I don't think there's anyone in here that doesn't want to keep rivers clean and I certainly want to keep them clean because I swim in my pond which is dammed up and it eventually goes into the Miller's River. But, today we have a dollar in the program and this is how all the programs in the State of New Hampshire start, they start with one dollar. What's going to happen in two years, or four years, or five years from now when they find that we've started a new bureaucracy and it's going great guns and it's doing great work, how much are we going to be paying in 1992?

SENATOR MCLANE: A new bureaucracy consisting of one person, I think when you measure the cost which the Department of Environmental Services is happy to absorb into their budget at the present time, when you measure that cost against the cost of what it means to New Hampshire to have those rivers, I think you'd find that that dollar invested, or the money that it eventually would cost if it becomes bigger, is money worth investing but at the present time, all you're talking about is one river coordinator.

SENATOR NELSON: Senator Freese, you and I sit on the joint legislative committee for the recodification of the water laws. Having listened to some of the testimony on the floor at this time, and as you know, we've been looking at dams and rivers, do you feel it might be appropriate to send this bill to study as we are now in the process of recodifying all the laws, sir?

SENATOR FREESE: I'll answer your question in this way; I'm recommending interim study from my concerns with the bill and I think you have a good point. The water laws are being recodified and there are some things in there that we have to recommend for legislation besides the recodification that has to be corrected. I do feel that it would be helpful if we could send this to interim study and wait for those things to come along.

SENATOR NELSON: Senator McLane, in the deliberations I notice that today on the floor of the Senate we've been discussing the quality of water, yet I notice within the bill there is no accommoda-

tion of someone from the department of public health. Do you think that should be a part of the bill, in that so many parts of the state use that water for drinking?

SENATOR MCLANE: You bring up an all important point, is that now you have office of state planning, water quality, water pollution, public health; all of these people dealing with rivers. What you need is a rivers coordinator that knows who to deal with in public health and that's what the bill calls for. I just can't stress to you enough that one of the primary functions of this rivers coordinator will be to coordinate state policy. Of course public health has a lot to do with rivers. We need clean water and I think this is exactly what the rivers coordinator will do.

SENATOR NELSON: Specifically, in looking over the amendment, I noticed a list of people who would be on the advisory board. I noticed, in my opinion, the absence of someone from public health. Should we in fact be more specific and amend the bill, if it passes, to include someone from public health?

SENATOR MCLANE: I think that probably might be a good idea if you feel that water quality wouldn't represent the public health department.

SENATOR HOUNSELL: This bill is in the process of the legislature in that it does strive to set a policy in place, that I'm sure there's 24 Senators who agree to and I'd like to read it to you so that you can see the thrust and perhaps the focus of this bill. New Hampshire's rivers and streams comprise one of its most important natural resources, historically vital to New Hampshire's commerce, industry, tourism and to the quality of life of New Hampshire's people. It is a policy of the state that certain rivers possessing outstanding recreational, fisheries, wildlife, environmental, cultural, historical, archaeological, scientific, ecological, aesthetic, and community significance shall be conserved, protected and managed for the benefit of present and future generations through state laws regulating the quality of in-stream flows and through the encouragement of local river corridor plans. I want to stress that would encouragement. This bill doesn't mandate any programs, it encourages people locally to develop their own corridor plans. I'm sure we all agree on that part of it, I'm sure that there are parts of this bill that are flawed. The amendment that we have that's going to be offered, the floor amendment, I think addresses the BIA's concerns. They worked on this and they were welcomed to, this bill was four to one in committee. Yes,

Senator Freese did oppose it, he had some concerns, some valid concerns. Senator Bond has been very active in this and his concerns are valid concerns. But this is a bill and a statement of policy that's needed. New Hampshire boasts of how well we're doing economically, but you can not continue economic stability without environmental security. We've got to do something about our rivers. I think it'd be unfortunate if today we were to defeat this bill and not have a rivers bill pass this session. This bill has been amended and Senator White, it didn't start at a dollar, it started at \$100,000 and it was amended to a dollar because we feel that the Finance committee is the committee to address that. I would have no problem, if down in Finance some of these other concerns were addressed, nor would I have any problems if it went to the House and those concerns were addressed there and then have it come back for approval or disapproval of this body. I think it's very important that we not become too fearful of what isn't in the bill or what is in the bill, but that this is a vehicle by which we can preserve our beautiful rivers for generations to come. I do hope that you can support it.

SENATOR ST. JEAN: Senator Hounsell, I do want to compliment you and Senator McLane on your hard work on this legislation. You mentioned that if we passed this legislation it would come down to Senate Finance. How would you feel if perhaps we amended it so that the \$100,000, if we felt that that was a fair amount of money, came out of the land trust bill rather than the general appropriation money?

SENATOR HOUNSELL: If in the wisdom of the Senate Finance Committee felt that's where the \$100,000, if that's what it takes, should come from, I'd have no problem with that.

SENATOR WHITE: As I stated before, I believe in the rivers bill but some of the concerns I didn't address to Senator McLane are; the Connecticut River, 210 miles of the Connecticut River is the dividing line between the State of New Hampshire and the State of Vermont. Do we have cooperation from the State of Vermont or are we going to be cleaning up all of their messes?

SENATOR HOUNSELL: First of all, the Connecticut River is more than a dividing line, actually the dividing line is the high water mark, the Connecticut River is in New Hampshire.

SENATOR WHITE: But, they do empty into it?

SENATOR HOUNSELL: Yes, and I think Vermont has been very responsible of late of trying to work towards the proper use of the river and I'm not fearful that Vermont is going to scuttle any serious effort to make sure that we protect the water that's flowing through that river. I don't have that concern.

SENATOR BLAISDELL: I rise in support of Senator McLane's motion and I too, congratulate Senator Hounsell and Senator McLane on the job they've done on this bill. I am the sponsor of the bill and when the original bill came out, certainly there were some problems and I agree with you, Senator Freese, a lot of problems. I had a problem with the moratorium on the river. It's been mentioned that this bill, if passed by the Senate, will be sent to Finance. I can assure you Senator Chandler that if it is sent to Finance, along with the Ashuelot in the Keene area, that I will put the Piscataquog River in also. We seem to be forgetting one thing, we have two bridges here. We have the House of Representatives and we have the Senate. If we can send over a piece of legislation that's improved itself, like it has from the original bill, and pass it into Finance and get some of the other amendments on that you people would like to have, we'd be very glad to do it for you. Then send it over to the House. All of this talk about cleaning up our rivers, we always say that we can do it next January. That's wrong! I think we are a sitting body now, get a good piece of legislation out of here, the best that we possibly can do and Senator Bond, I offer you Senate Finance tomorrow or the next day if you want to read the bill over night and see if there's some problems that you have, we'll offer that to you. These rivers are just like our kids, by the way, they're our greatest natural assets that we have, rivers. Something that brings people to our state, they're beautiful and we don't take care of them. So, I ask you to pass this bill out to Finance, we'll get the amendments on, try to get it back up on the floor and then send it to the House where you can address other problems that might come up. Let the two bodies look at it and maybe we can come out with a good piece of legislation.

Senator Bond moved to substitute Interim Study.

SENATOR BOND: It's beneath the dignity of this body to send half completed legislation to the House. I urge you to send this to interim study so that in the next session we can send a completed and proper bill.

SENATOR BLAISDELL: I don't know what he just said, he said beneath the dignity of this body to send the piece of legislation that is half done, there are those of us in this room, Mr. President, that

feel that this is a pretty good piece of legislation and we should be addressing it. I think that is an insult to the Senate as far as I am concerned.

SENATOR PRESSLY: I rise in opposition of the motion interim study. There's been much discussion today about the value of this bill. We all recognize there will be some amendments. I have mine drafted to include two new rivers. Senator Chandler's river has just been added to that and it will be presented at the Senate Finance. I think it's very clear that many members of this chamber feel that there is an idea of merit here and that it should, at least at this point, go to Finance, give many members a chance to study it a little bit further and to have a final vote on it when it comes before the full body.

SENATOR WHITE: Senator Pressly, you have just admitted that there are many amendments that should be added, is that correct?

SENATOR PRESSLY: The amendments that I have to be added are two rivers and it was requested that in the interest of time and today that instead of introducing it today, the two new rivers and the river that Senator Chandler has requested, that we can add those amendments in Finance. It makes good sense, we have a busy day and in no way does it alter the bill.

SENATOR WHITE: You don't believe that what Senator Bond has said that it's an imperfect bill at this time and let's clean up our act before we send it on?

SENATOR PRESSLY: I believe that we are keeping it within the Senate chamber by sending it to the Finance committee. So, as far as I'm concerned, one committee is sending it to another committee. It's still the property of the New Hampshire Senate and I'm pleased to have it in our possession and I think it should stay here.

SENATOR DUPONT: Senator Hounsell, one of the things I think that has become fairly obvious about this bill is there is a lot of concern about other rivers in New Hampshire and in my area I can think of one that has undergone a massive cleanup over the last few years. I guess I'd like to know what deliberation the committee went through to determine what rivers were going to go in other than personal preference of the individual Senators that were involved. Because I think if we're going to protect rivers in New Hampshire it shouldn't be based on one river here and one river there. When we protected lands with the land trust we didn't say you couldn't buy

land in just Dover or Rochester; we said it is a policy that should effect the whole state. So, I guess my concerns, and I'd like you to address them, is why we didn't just say this bill is to protect the rivers in New Hampshire rather than name eight or ten rivers that perhaps are people's personal favorites?

SENATOR HOUNSELL: Senator Dupont, I do appreciate that question because I was at that position myself and, quite frankly, I think that there is a lot to be said for not listing the rivers at this time. However, it was overwhelmingly supported of the rivers that are on here by various people. I do think that each river tells its own story and a lot of them can speak for themselves, for example the Pemigewasset River. The Pemigewasset Council itself which oversees this river speaks for the river at least, they maybe self appointed but they do, they came down and asked that the Pemigewasset be on it. I think that their voice carries weight. I personally said, that geees you really should protect the Swift River, it's one of the cleanest and best river in the state so I had a little bit of input on that one. However, I think that there'd be merit to not having a river added at this time because it does establish a program, a process and, I would urge those Senators who are starting, in their own minds and getting calls from constituents to identifying other bodies of water, to be aware that that provision is in here. I don't know, maybe it sort of borders on pork barrels but, I think these rivers are worth protecting.

SENATOR DUPONT: Senator, it just seems to me the way everybody is adding rivers to this bill, that it's as if it's a bill that spends money and every body just wants their little piece. I just question whether the politics really drove, whether we didn't want to touch rivers that were sensitive in terms of development and we steered clear of the ones that perhaps need the most help and just went for the easy rivers such as the Swift River or the Pemigewasset that might perhaps be a little less political than some of the rivers down in other parts of the state.

SENATOR HOUNSELL: I would just say that I think there are times in the political process and the politicians can do good things. I think that the rivers that are added in this bill are good inclusions and, I don't mean my remarks to state otherwise. However, you do raise a good point and I think that's something that as we go through with this bill, hopefully as we continue, that we can work those things out.

SENATOR NELSON: Senator Hounsell, I would like to address the same question to you that I did to Senator Freese, in that, we are working and you also are a member of that joint committee on the recodification of the water laws, we are addressing dams, we're addressing rivers. I would ask you, what impact a bill like this would have on the recodification, could we wait or do we need it right now?

SENATOR HOUNSELL: You can always wait, Senator Nelson, do we need it now? No, you don't need it now but I think it's a good time to be doing it before we do need it, before we're talking more about well, how we're going to fund the cleanup. Let's save the water and look towards making the water secure before we have to clean it up. Prevention is a lot cheaper than clean up.

SENATOR NELSON: What would be the impact of this legislation on our work in the committee on the recodification of the laws, if we're now introducing brand new laws and creating new positions?

SENATOR HOUNSELL: Probably make a very confusing path much more confusing.

I would just ask that you would defeat this motion of interim study. I think this bill should either be voted up or down. I don't think interim study is a proper way to go.

Roll Call requested by Senator Blaisdell
Seconded by Senator Stephen

The following Senators voted yes: Bond, Heath, Freese, Dupont, Roberge, White, Podles, Johnson, Delahunty and Preston.

The following voted no: Heath, Hough, Chandler, Disnard, Blaisdell, Pressly, Nelson, Charbonneau, McLane, Stephen, St. Jean, Torr and Krasker.

10 Yeas

13 Nays

Motion lost.

AMENDMENT TO SB 326-FN-A

Amend RSA 221-B:1 and 2 as inserted by section 1 of the bill by replacing them with the following:

221-B:1 Statement of Policy. New Hampshire's rivers and streams comprise one of its most important natural resources, historically vital to New Hampshire's commerce, industry, tourism, and to the quality of life of New Hampshire people. It is the policy of the state

that certain rivers possessing outstanding recreational, fisheries, wildlife, environmental, cultural, historical, archaeological, scientific, ecological, aesthetic, and community significance shall be conserved, protected, and managed for the benefit of present and future generations through state laws regulating the quality of in-stream flows and through the encouragement of local river corridor plans.

221-B:2 Program Established; Intent.

I. There is established within the department of environmental services the New Hampshire rivers management and protection program. The intent is to identify, conserve, and protect the values and uses of New Hampshire's outstanding river resources, as identified through the process envisioned in chapter 190 of the laws of 1986 and established in this chapter, through public involvement; local planning, zoning, and management; regional planning and cooperation; state technical assistance; regulation of in-stream uses to maintain high water quality and adequate water flows; and consistent local, state and federal regulatory and enforcement actions.

II. It is also the intent of the legislature that the water quality of outstanding rivers and river stretches identified for protection under this chapter shall comply with existing state and federal law, the scenic beauty and recreational potential of such rivers shall be maintained in both undeveloped and developed areas, anadromous and other fisheries shall be restored and maintained, the rights of riparian owners shall be respected, no new dams shall be constructed except as specifically authorized by the legislature, and maintenance and additional development of existing dams shall enhance or not diminish the quality of such outstanding rivers.

Amend RSA 221-B:4, I as inserted by section 1 of the bill by replacing it with the following:

I. Outstanding rivers, river stretches, and streams shall include, but not be limited to, the main stems of the following:

- (a) Connecticut River.
- (b) Contoocook River.
- (c) Isinglass River.
- (d) Lamprey River.
- (e) Merrimack River.
- (f) Pemigewasset River.
- (g) Saco River.
- (h) Smith River.
- (i) Swift River.

Amend RSA 221-B:5, II, and III as inserted by section 1 of the bill by replacing it with the following:

II. There is established in the office of planning, department of environmental services, a state rivers coordinator, who shall be a classified employee appointed by the commissioner, and qualified by reason of education and experience. The rivers coordinator shall assist and cooperate with the nominator or nominating organization, and shall, within 90 days of receipt of a nomination, review the nomination and prepare a recommendation for review by the commissioner under the criteria established in paragraph IV.

III. The commissioner shall review the nomination within 30 days. If the commissioner determines that the river meets the criteria adopted by rules under RSA 221-B:9, II, the rivers coordinator, the nominator, and the commissioner shall, before the next legislative session, forward the nomination to the general court for legislative review and approval according to RSA 221-B:6.

Amend RSA 221-B:7 as inserted by section 1 of the bill by replacing it with the following:

I. No new dams, significant expansion of existing dams, interbasin transfers, or significant diversions or obstructions to the natural free-flowing qualities shall be permitted unless specifically authorized by the legislature. For the purposes of the Electric Consumer Protection Act amendment to the Federal Power Act, outstanding rivers designated for inclusion in the program shall constitute one element of the state comprehensive plan for river conservation and development. Outstanding rivers or river segments so designated shall also constitute state protected waterways with respect to the provisions of the Public Utilities Regulatory Policies Act, Section 10(a), 16 U.S.C. 800, section 210.

II. Water quality shall not be degraded from existing water quality standards established in RSA 149 and 149-E and shall be at least fishable and swimmable as defined in the Federal Water Pollution Control Act, 33 U.S.C. Sec. 1251 et seq. No significant adverse impacts on water quality or other in-stream characteristics from development upstream or on a tributary of the designated section shall be permitted.

Amend RSA 221-B:8 as inserted by section 1 of the bill by replacing it with the following:

221-B:8 Management plan.

I. The office, with the cooperation and assistance of the office of state planning, shall develop detailed recommendations for river corridor management guidelines, provide technical assistance and fi-

financial assistance to regional planning commissions and municipalities, and encourage municipalities to develop and implement river corridor management plans. The office of state planning shall provide technical and financial assistance, pursuant to RSA 7-C:7-10 and RSA 4-C:19-22 to regional planning commissions, river corridor commissions, and municipalities to develop river corridor management plans.

II. River corridor management plans, developed pursuant to paragraph I, shall include, but not be limited to, the following:

- (a) Permitted recreational uses and activities.
- (b) Permitted non-recreational uses and activities.
- (c) Existing land uses.
- (d) Protection of flood plains, wetlands, wildlife and fish habitat, and other significant open space and natural areas.
- (e) Dams, bridges, and other water structures.
- (f) Access by foot and vehicles.
- (g) Setbacks and other location requirements.
- (h) Dredging, filling, mining, and earth moving.
- (i) Prohibited uses.

Amend RSA 221-B:10, IV as inserted by section 1 of the bill by replacing it with the following:

IV. Definition of significant dam expansion, river diversion or obstruction under RSA 221-B:7, I.

V. Development of planning process guidelines and approval procedures for river corridor management plans under RSA 221-B:8.

Amend the bill by deleting RSA 221-B:9 as inserted by section 1 of the bill and by renumbering RSA 221-B:10 and 11 to read as RSA 221-B:9 and RSA 221-B:10, respectively.

Amend section 2 of the bill by replacing it with the following:

2 Appropriation. There is appropriated the sum of \$1 to the department of environmental services for the fiscal year ending June 30, 1989, for the purposes of this act. The governor is authorized to draw his warrant for said sum from any money in the treasury not otherwise appropriated.

Amendment adopted.

Senator Hounsell offered a floor amendment.

SENATOR MCLANE: This is the amendment that the rivers group worked out with the BIA. I believe it has the support of the BIA

because the BIA is very strongly for a rivers bill. They know what clean water means to the State of New Hampshire. The technical part of this bill makes it very clear that changes in the process for putting a new dam into the State of New Hampshire would go through the legislature and through the commissioner of environmental services and the council. It also makes clear that present water quality is preserved but it does not make a change in water quality without going through the federal process. With those two amendments, the BIA has been happy with this legislation and I think it's clear that the rest of the pages that you have are merely the same amendment as the other one that you had before you. With those amendments, which have been worked on, we would send it down to Finance where the changes that Senator Chandler and Senator Pressly wanted to be added and any other rivers will be added.

I do want to make one other point clear. When we discussed the politics of listing the rivers, the original rivers listed were chosen because they had unique recreational or fishing value and we have not talked about fishing here today. The fact that the Senators want to add rivers, I think, is wonderful and I would like to say for those rivers, there are well over 200 in this state, that are not on the list, all that means is that the river coordinator will be working with community groups if they want to be added and of course every river in this state will be the concern of the river coordinator.

SENATOR WHITE: I guess I have the same concerns that Senator Dupont has and Senator Johnson. I think we either should have a pilot project wherein you pick one river or you turn around and you put in all the rivers because I don't see why you want to single out those that came forward on the bill or those that happened to hit districts from the Senators that sit on that committee. As I pointed out earlier, I have a dam on the north branch of the Miller's River. Now that goes through a lake in Rindge which is a recreational and fishing, and I think obviously there's more rivers in the state that have not been covered by this. I think, as Senator Bond said, it should go in with the recodification of the river. I do not feel that I will have time to testify in Senate Finance because I have several other hearings that I have to go to, so, I figured this is our only opportunity at this point to let Finance know some of our thoughts.

SENATOR JOHNSON: It seems to me that we're putting monumental faith in one bureaucrat over in the department of environmental services and all I can say to you is I hope that in addition to other qualifications that that person might have, I hope this new person can walk on water as well.

Floor Amendment to SB 326-FN-A

Amend RSA 221-B:1 and 2 as inserted by section 1 of the bill by replacing them with the following:

221-B:1 Statement of Policy. New Hampshire's rivers and streams comprise one of its most important natural resources, historically vital to New Hampshire's commerce, industry, tourism, and to the quality of life of New Hampshire people. It is the policy of the state that certain rivers possessing outstanding recreational, fisheries, wildlife, environmental, cultural, historical, archaeological, scientific, ecological, aesthetic, and community significance shall be conserved, protected, and managed for the benefit of present and future generations through state laws regulating the quality of in-stream flows and through the encouragement of local river corridor plans.

221-B:2 Program Established; Intent.

I. There is established within the department of environmental services the New Hampshire rivers management and protection program. The intent is to identify, conserve, and protect the values and uses of New Hampshire's outstanding river resources, as identified through the process envisioned in chapter 190 of the laws of 1986 and established in this chapter, through public involvement; local planning, zoning, and management; regional planning and cooperation; state technical assistance; regulation of in-stream uses to maintain high water quality and adequate water flows; and consistent local, state, and federal regulatory and enforcement actions.

II. It is also the intent of the legislature that, pursuant to RSA 221-B:1, the water quality of outstanding rivers identified for protection under this chapter shall comply with, and the provisions of this chapter shall complement and reinforce, existing state and federal water quality laws; the scenic beauty and recreational potential of such rivers shall be maintained in both undeveloped and developed areas; anadromous and other fisheries shall be restored and maintained; the rights of riparian owners shall be respected; no new dams shall be constructed except as specifically authorized by the legislature; and maintenance and additional development of existing dams shall enhance or not diminish the quality of such outstanding rivers.

Amend RSA 221-B:4, I as inserted by section 1 of the bill by replacing it with the following:

I. Outstanding rivers, river stretches, and streams shall include, but not be limited to, the mainstems of the following:

- (a) Connecticut River.
- (b) Contoocook River.
- (c) Isinglass River.
- (d) Lamprey River.
- (e) Merrimack River.
- (f) Pemigewasset River.
- (g) Saco River.
- (h) Smith River.
- (i) Swift River.

Amend RSA 221-B:5, II and III as inserted by section 1 of the bill by replacing them with the following:

II. There is established in the office of planning, department of environmental services, a state rivers coordinator, who shall be a classified employee appointed by the commissioner, and qualified by reason of education and experience. The rivers coordinator shall assist and cooperate with the nominator or nominating organization, and shall, within 90 days of receipt of a nomination, review the nomination and prepare a recommendation for review by the commissioner under the criteria established in paragraph IV.

III. The commissioner shall review the nomination within 30 days. If the commissioner determines that the river meets the criteria adopted by rules under RSA 221-B:9, II, the rivers coordinator, the nominator, and the commissioner shall, before the next legislative session, forward the nomination to the general court for legislative review and approval according to RSA 221-B:6.

Amend RSA 221-B:7 as inserted by section 1 of the bill by replacing it with the following:

221-B:7 Protection; Advisory Committee.

I. No new dams or impoundments, significant expansion of existing dams, or significant interbasin transfers, unless specifically authorized by the legislature, shall be permitted. No significant diversions, obstructions, or other uses of the river shall be permitted, unless approved by the commissioner of environmental services and the river management advisory committee pursuant to RSA 221-B:7, II. For the purposes of the Electric Consumer Protection Act amendment to the Federal Power Act, outstanding rivers designated for inclusion in the program shall constitute one element of the state comprehensive plan for river conservation and development. Outstanding rivers or river segments so designated shall also

constitute state protected waterways with respect to the provisions of the Public Utilities Regulatory Policies Act, Section 10(a), 16 U.S.C. 800, section 210.

II.(a) No significant diversions, obstructions, or other uses of rivers listed under RSA 221-B:4, I shall be permitted without the unanimous approval of the commissioner and the river management advisory committee established by subparagraph (b) of this paragraph. No such diversion, obstruction, or other uses of such rivers shall be approved if the commissioner and the advisory committee find that such use or development would significantly harm the quality and values listed in RSA 221-B:1 for which such river has been protected under this chapter. Approval for any project shall be given only after a public hearing and determination by the rivers management advisory committee that the proposal is consistent with protecting the affected river pursuant to this chapter.

(b) There is established a rivers management advisory committee, which shall be composed of:

(1) The commissioner of environmental services, who shall serve as committee chair. The commissioner shall not appoint a designee to serve in his place, except that the assistant commissioner of environmental services may serve.

(2) A member appointed by the Business and Industry Association of New Hampshire.

(3) A member appointed by the Granite State Hydropower Association.

(4) A member representing the interests of public water suppliers, appointed by the governor.

(5) A member appointed by the New Hampshire Municipal Association.

(6) A member appointed by the New Hampshire Wildlife Federation.

(7) A member appointed by the New Hampshire Rivers Campaign.

The director of the office of state planning, the executive director of the department of fish and game, and the commissioner of resources and economic development or their designees shall serve as non-voting members of the committee.

(c) The terms of state agency members shall be the same as their terms in office. The other members shall serve 3 year terms, except that the terms of the initial members appointed under subparagraphs II(b)(2) and (3) shall be one year; and those appointed under subparagraphs II(b)(4) and (5) shall be 2 years.

(d) The advisory committee shall meet at the call of the chair, or at the request of 4 or more committee members. The committee

shall elect one of its members as vice-chair. The rivers coordinator under RSA 221-B:5, II shall serve as secretary and staff to the committee.

III. Water quality shall not be degraded from existing water quality standards established in RSA 149 and 149-E. No significant adverse impacts on water quality or other in-stream characteristics shall be permitted.

Amend RSA 221-B:8 as inserted by section 1 of the bill by replacing it with the following:

221-B:8 Management Plan.

I. The office, with the cooperation and assistance of the office of state planning, shall develop detailed recommendations for river corridor management guidelines, provide technical assistance and financial assistance to regional planning commissions and municipalities, and encourage municipalities to develop and implement river corridor management plans. The office of state planning shall provide technical and financial assistance, pursuant to RSA 4-C:7-10 and RSA 4-C:19-22 to regional planning commissions, river corridor commissions, and municipalities to develop river corridor management plans.

II. River corridor management plans, developed pursuant to paragraph I, shall include, but not be limited to, the following:

- (a) Permitted recreational uses and activities.
- (b) Permitted non-recreational uses and activities.
- (c) Existing land uses.
- (d) Protection of flood plains, wetlands, wildlife and fish habitat, and other significant open space and natural areas.
- (e) Dams, bridges, and other water structures.
- (f) Access by foot and vehicles.
- (g) Setbacks and other location requirements.
- (h) Dredging, filling, mining, and earth moving.
- (i) Prohibited uses.

Amend RSA 221-B:10, IV as inserted by section 1 of the bill by replacing it with the following:

IV. Definition of significant dam expansion, significant interbasin transfer, significant diversion, significant obstruction, and other uses of such rivers under RSA 221-B:7 with the advice of the rivers management advisory committee.

V. Adoption of standards and procedures for approvals under RSA 221-B:7, II with the advice of the rivers management advisory committee.

VI. Development of planning process guidelines for river corridor management plans under RSA 221-B:8.

Amend the bill by deleting RSA 221-B:9 as inserted by section 1 of the bill and by renumbering RSA 221-B:10 and 11 to read as RSA221-B:9and221-B:10, respectively.

Amend section 2 of the bill by replacing it with the following:

2 Appropriation. There is appropriated the sum of \$1 to the department of environmental services for the fiscal year ending June 30, 1989, for the purposes of this act. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

Floor amendment adopted. Referred to Finance (Rule #24)

SB 322-FN-A, relative to petroleum pollution cleanup. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: The amendment to this bill appears on page 22 of your calendar. As amended, this establishes an oil discharge and disposal clean up fund to be collected as part of the road toll assessment by the division of motor vehicle and to be administered by an oil discharge and disbursement board. The board is to be composed of the commissioner of revenue or his designee, commissioner of environmental services or his designee, three reps. of the oil dealers distributors and refiners, two members of the general public, two members of House, two members of the Senate and the board is responsible for deciding on applications for money from the fund and investigating claims made against owners of underground storage facilities, which might be reimbursed by the fund. The fund is financed by a fee of \$.003 per gallon of motor fuels either transferred within the state or transported into the state with exceptions of oil pipelines that go through the state. Owners of underground storage facilities are eligible to apply for assistance from the fund depending on the number of facilities owned, after paying a certain amount for each oil spill or leak at each facility owned. Owners are also eligible to apply for assistance in reimbursing third parties injured by such spills or leaks. Mr. President, I'm keeping my comments short. I could go on for hours about the importance of this bill. This bill, I think is major environmental protection and the committee voted unanimously for its support and we hope that this body will also.

SENATOR DISNARD: Senator Hounsell, I understand your 3 tenths of cent, but in the fiscal impact I notice that it talks about three cents. Now, is that fiscal impact based on three cents or is that an error?

SENATOR HOUNSELL: The impact is wrong. Research found that for us and thank you for pointing that out. The bill's correct.

AMENDMENT TO SB 322-FN-A

Amend the bill by replacing all after the enacting clause with the following:

1 Purpose. The purpose of this act is to establish responsibility for the cleanup of oil discharge and disposal and to establish a fund to be used in addressing the costs incurred by the owner of underground storage facilities for costs incurred in the clean-up of oil discharge and disposal and to protect groundwater. The fund established under this section shall be in addition to the oil pollution control fund established pursuant to RSA 146-A:11-a.

2 New Subdivision; Oil Discharge and Disposal Cleanup Fund. Amend RSA 146-C by inserting after section 12 the following new subdivision:

Oil Discharge and Disposal Cleanup Fund

146-C:13 Definition. In this subdivision:

I. "Facility" means a location consisting of a system of tanks, pipes, pumps, vaults, fixed containers and appurtenant structures, singly or in any combination, which are used or designated to be used for the storage, transmission, or dispensing of oil or petroleum liquids, and which are within the size, capacity and other specifications prescribed by rules adopted by the division pursuant to RSA 146-C:9, VI.

II. "Oil" means gasoline and diesel products. The term "oil" shall not include natural gas, liquified petroleum gas, or synthetic natural gas, regardless of derivation or source, or any oil used for heating or processing.

146-C:14 Fund Established; Collection.

I. There is established an oil discharge and disposal cleanup fund. This non-lapsing fund shall assist in reimbursing the owner for costs incurred in cleaning up oil discharges and disposals in the ground and surface waters and soils of the state. The fund shall be collected as a fee imposed on all gasoline and diesel fuel transferred or transported into or within this state.

II. Any operator, distributor, dealer or broker who transfers or transports or causes to be transferred or transported oil products within or into this state shall be assessed a fee of \$.003 per gallon of such products transferred or transported within or into this state. This fee shall be in addition to any road toll paid pursuant to RSA 260:32, and shall be deposited in the oil discharge and disposal cleanup fund established under this subdivision.

III. The fee provided for in this section shall be collected by agents of the division of motor vehicles, through an addition to the road toll assessment form filed pursuant to RSA 260:38. Such funds shall be deposited in the oil discharge and disposal cleanup fund established under this subdivision.

IV. Moneys collected for the fund shall be deposited with the state treasurer to the credit of said fund and may be invested as provided by law. Interest received on such investment shall also be credited to the fund. If the fund's balance becomes greater than \$5,000,000, the fund assessment fees provided for in this subdivision shall be discontinued and only re-established when the fund's balance is less than \$2,500,000.

146-C:15 Oil Fund Disbursement Board Established; Membership.

I. There is established the oil fund disbursement board, to be composed of the following members:

(a) The commissioner of environmental services, or his designee.

(b) The commissioner of revenue administration, or his designee.

(c) Three members representing petroleum dealers, distributors, and refiners, appointed by the governor with the consent of the council.

(d) Two public members, appointed by the governor with the consent of the council.

(e) Two members of the senate, appointed by the president of the senate.

(f) Two members of the house of representatives, appointed by the speaker of the house.

II. The board shall select a chairman from among its members at its organizational meeting.

III. The board members shall serve without compensation, except that all non-legislative members shall be reimbursed for mileage incurred on board business at the state employee mileage rate. The legislative members shall be reimbursed for mileage at the legislative rate.

IV. Any member of the board having an individual interest, or an interest in another business, which may conflict with an issue under

consideration by the board, shall not participate in any deliberations or vote of the board on the issue before the board.

146-C:16 Board Powers and Duties. The board shall adopt rules, pursuant to RSA 541-A, relative to:

I. Processing applications for compensation from the oil discharge and disposal cleanup fund.

II. Procedures for verifying claims presented under this subdivision.

III. Specifying costs in relation to reimbursements claimed.

IV. Developing eligibility criteria in addition to the requirements of RSA 146-C:17, I.

146-C:17 Eligible Expenses.

I. The fund shall be available to owners of underground storage facilities with a capacity equal to or greater than 1,100 gallons. Owners of underground storage facilities with current permits, current records, and who are in compliance with all rules of the division shall be eligible to apply to the fund.

II. Before applying for money from the fund, owners eligible for funds under this subdivision shall be responsible for the following:

(a) The owner of one facility shall be responsible for the initial \$5,000 of cleanup costs at such facility.

(b) The owner of from 2 to 19 facilities shall be responsible for the initial \$20,000 of cleanup costs at each facility owned.

(c) The owner of 20 or more facilities shall be responsible for the initial \$30,000 of cleanup costs at each facility owned.

III. Owners of facilities eligible under this subdivision may apply for funds to reimburse third parties for bodily injury or property damage in amounts not to exceed \$1,000,000.

IV. Owners of facilities eligible under this subdivision may apply for reimbursement for costs of cleanup and third party damages occurring on or after the effective date of this section.

V. Owners of facilities eligible under this subdivision may apply for funds to cover the costs for both on-site and off-site cleanup of oil discharge and disposal up to a maximum amount not to exceed \$1,000,000.

VI. Costs of new tanks and associated piping shall not be considered eligible costs under this subdivision.

VII. Notwithstanding any provision of this subdivision, the division shall not be liable to any eligible party if sufficient funds are not available in the fund to meet the limits established in this subdivision.

3 New Paragraph; Oil Discharge and Disposal Cleanup Fee; Collection by the Division of Motor Vehicles; Transfer to Oil Discharge

and Disposal Cleanup Fund. Amend RSA 260:38 by inserting after paragraph III the following new paragraph:

IV. The forms provided for in this section shall include a section for collection of the oil discharge and disposal cleanup fee established under RSA 146-C:14. The division of motor vehicles shall be responsible for collection of such fee and transfer of such funds to the oil discharge and disposal cleanup fund under rules adopted by the director pursuant to RSA 541-A, after consultation with the oil discharge and disposal disbursement board. The division shall pay 2 percent of the funds collected under this paragraph to the department of safety to cover the costs of administration of such collection process and shall retain 2 percent of the funds collected pursuant to this paragraph for the division to cover the costs of administration of the oil discharge and disposal cleanup fund.

4 Definition; Oil Terminal Facility. Amend RSA 146-A:2, IV to read as follows:

IV. "Oil terminal facility" means any facility of any kind and its related appurtenances located within the boundaries of this state that is used or capable of being used for pumping, handling, transferring, processing, refining or storing oil [and has a storage capacity of 1,000 barrels or more];

5 New Paragraph; Definition; Small Business. Amend RSA 146-A:2 by inserting after paragraph VI the following new paragraph:

VI-a. "Small business" means small service stations and small retail grocery and merchandise stores which sell less than 35,000 gallons of gasoline per month, at retail, or employ the equivalent of not more than 5 full-time employees, not including the owner or operator;

6 Oil Pollution Control Fund; Payment of Reimbursable Costs. Amend RSA 146-A:11-a, VI to read as follows:

VI. All funds paid to the state to reimburse costs paid out of the oil pollution control fund by any person or operator strictly liable to the state under RSA 146-A:3-a and 146-C:11, [and repayments of any other loans made under this chapter,] shall be placed in the oil pollution control fund.

7 Importation of Oil into the State; Collection of License Fee. Amend RSA 146-A:11-b, II and III to read as follows:

II. Any operator, distributor, dealer, or broker who, or any wholesale terminal facility which transfers or transports or causes to be transferred or transported oil into the state, except those using oil pipelines, railroads, and highways to transport oil products between states other than New Hampshire or for international transport of oil products, shall be licensed under this chapter. The annual fee for the license shall be determined on the basis of \$.025 per bar-

rel of oil transferred into this state during the license period. The license fee shall be computed at the point of entry of the oil into this state. The fee shall be paid monthly by the licensee to the [division of water supply and pollution control] department of safety and then deposited by the [division of water supply and pollution control] department of safety into the oil pollution control fund administered by the division of water supply and pollution control. Imposition of the fee shall be based on the records of the licensee and certified as accurate to the [division of water supply and pollution control] department of safety.

III. Any operator, distributor, dealer or broker who [has a storage facility capable of storing 1,000 or more barrels of oil and who] or any wholesale terminal facility which transfers or transports or causes to be transferred or transported oil into the state and who is licensed under this chapter shall be entitled to a credit against his annual license fee assessed under this section equal to the amount of any hazardous material transporter's license fee which he has paid to the department of safety pursuant to the provisions of RSA 106-A upon presenting satisfactory evidence of payment of the hazardous material transporter's fee for any vehicles involved in the importation, transfer or transport of oil into this state.

8 New Subparagraph; Rulemaking; Collection of Oil Import Fees. Amend RSA 21-P:14, V by inserting after subparagraph (p) the following new subparagraph:

(q) Procedures for the inspection and verification of oil transfer and transport records pursuant to RSA 146-A:11-b.

9 Repeal. The following are repealed:

I. RSA 146-A:3-a, III, relative to loans from the oil pollution control fund.

II. RSA 146-A:11-a, IV, relative to priority distribution of oil pollution control fund loans.

III. RSA 146-A:11-c, XII, relative to application procedures for loans from the oil pollution control fund.

IV. RSA 146-A:11-c, XIII, relative to eligibility criteria for loans from the oil pollution control fund.

V. RSA 146-A:11-c, XIV, relative to administration of loans from the oil pollution control fund.

VI. RSA 146-C:11, V, relative to the availability of loans from the oil pollution control fund for underground storage facilities.

10 Review. The fund established pursuant to this act shall be reviewed by the legislature 6 years from the effective date of this act to determine the need for the fund to continue.

11 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted. Ordered to Third Reading.

SB 241, relative to the method by which the articles of agreement for cooperative school districts may be amended. Inexpedient to Legislate. Senator Disnard for the Committee.

SENATOR DISNARD: The Education committee voted unanimously inexpedient to legislate. The committee would like to commend Senator Chandler for his concern about his community of Warner. However, the committee was concerned about legislation and grandfathering because this bill would force every existing co-operative school district to change its formula that it had agreed upon in order to cover his bill. Another item is, his co-operative district will be voting this school year on changing this formula. So, we felt that it was inappropriate at this time for us to vote on this.

Adopted.

SB 254-FN-A, making a supplemental appropriation for school aid. Ought to Pass. Senator Hough for the Committee.

SENATOR HOUGH: SB 254 was heard by the committee; it is simply a supplemental appropriation to pay the difference between the 75% school building aid appropriation in the operating budget and the now known demand in the first fiscal year of the biennium. We passed the budget through the conference last year, we were not clear on what exactly was needed for an appropriation level and we agreed to fund a figure that was an approximate 75%. This is a \$256,000 supplemental appropriation so that we can meet our long standing commitments to the local school boards in the area of school building aids. The committee urges its passage and it will be referred to Finance and we will also be looking at the second year of the biennium.

Adopted. Referred to Finance (Rule #24).

SB 255, relative to school district boundaries. Ought to Pass with Amendment. Senator Johnson for the Committee.

SENATOR JOHNSON: SB 255 was introduced to basically provide a key to unlock a situation that has a historical basis way back into the 1800's. In 1988, the situation is so different that there needs to be legislation in order to permit these two communities to dissolve that arrangement that was true and appropriate in the late 1800's but is no longer true today.

AMENDMENT TO SB 255

Amend the bill by replacing all after the enacting clause with the following:

1 Restoration of Annexed Territory. Amend RSA 194:55 to read as follows:

194:55 Restoration. Any territory annexed for school purposes to an adjoining town, or school district therein, may, upon proceedings such as have been prescribed in [the foregoing section] this subdivision, be restored to the town or district from which it was severed. Such proceedings may be initiated by any person in either the school district to which the territory has been annexed, or the school district of which it was originally a part.

2 Effective Date. This act shall take effect January 1, 1989

Amendment adopted. Ordered to Third Reading.

SB 289-FN, relative to foundation aid levels. Inexpedient to Legislate. Senator Johnson for the Committee.

SENATOR JOHNSON: Let me just remind this body that is was only a couple of years ago that we had a long, heated and an appropriate discussion on a bill to revise the foundation aid formula. This body passed that bill because it recognized that it stood for fairness and equity in the distribution of state money. Senator Heath, subsequent to the passage there, introduced a bill that would study the effects of the revised foundation aid formula. I supported that and this body supported that and we now have a study group doing exactly that. In my opinion, it would be totally inappropriate to make any kind of a change in the foundation aid formula until that study group has completed its work. There may very well be some unforeseen problems with the foundation aid bill that was originally passed. I need to share with this group the testimony of the superintendent from the town of Hollis, who came in and thought we ought to change the foundation aid formula so that the town of Hollis would not lose \$28,000 and he said that if we didn't pass this bill that the town of Hollis was going to lose that \$28,000 and it was going to increase their tax rate by ten cents. I don't think that's a good enough reason to, at this time, make a radical change to the foundation aid formula which we passed in this body just a few years ago.

SENATOR WHITE: Senator Johnson, I think the concern of a lot of us, would you believe, is that when sweepstakes were first founded, they were founded with the idea that all school districts would get

some money. We have now incorporated a lot of other funding and I would hope, and maybe you could answer, the ongoing study that's dealing with foundation aid, will they take that into consideration into their study?

SENATOR JOHNSON: Senator White, I'm not a member of that committee so I can't answer that precisely, but you certainly came up with an interesting notion at the hearing. I could pledge you my support to inquire into that and make sure that we do indeed look for opportunities to provide increased fairness and equity, if that was the case.

SENATOR BOND: Senator Johnson, would you believe that that approximate same amount of \$28,000 that would have affected ten cents in the Hollis tax rate, when received by the town of Dalton, because of the whole timeless reduction, will mean a drop of about five dollars in the tax rate?

SENATOR JOHNSON: I would indeed believe that Senator Bond and I'm glad you brought that out.

Senator Disnard moved to substitute Ought to Pass.

SENATOR DISNARD: I'd like to speak and hope that this body will send this to the Finance committee for fiscal impact. Why do I say that? I say that from common sense. When the foundation aid, the Augenblick formula, was changed it was changed with the idea of going from three million to fourteen or fifteen million. No body dreamt when they were voting, it might have been discussed in committee, that this amount of money would be thirty-three million dollars. I now hear that this is inappropriate, I'd like to say, perhaps the Finance committee in its wisdom could change the whole harmless to present 33%. That would not be changing the formula, it would be putting the amount of money appropriated to the school districts on hold. Senator Nelson, Senator Preston, Senator White have concerns for their communities. Let's discuss this a few minutes more. These poorer school districts are not receiving this 33% now, so if they're not receiving the 33% now, they're not losing what they don't have. Secondly, let's be honest and use common sense, there are over 70 voters in the House from Nashua and Manchester plus many voters from Portsmouth and other school areas, if in the future, these poorer school districts, I represent one of those poorer school districts, want additional dollars for the Augenblick formula, why should those Representatives and Senators vote for this when

they're going to get zilch, no new money. The Augenblick formula, remember also includes special ed money, now that there's thirty-two million in the Augenblick formula should these communities loose that special ed money? For all's I'm asking is this bill ought to pass, be sent to Senate Finance for fiscal impact.

SENATOR BOND: Senator Disnard, as I recall correctly, the Augenblick formula involves equalized evaluation of each community, average daily membership of each community and the per capital income within each community. I understand the concern that this bill reflects, but I have to be more concerned about the fact that if you were to freeze the formula at its present level instead of following it through to the equity that it was established for, that the city of Berlin would loose almost \$300,000 that they've already been told is what is coming in the next fiscal year. How do I explain that to the city of Berlin?

SENATOR DISNARD: Senator Bond, I respect you, I understand you're defending the city of Berlin, but you're in vast error. If 33%, the whole harmless was for next year, the city of Berlin would receive \$1,431,000 as compared to zero whole harmless of \$1,461,000 or \$30,000. I'd like to point out that in 1985 that the good city of Berlin, which has a good fishing area, received the sum of \$141,000 so they have increased from \$141,000 from 1985 to either \$1,461,000 or \$1,431,000 next year. So there's \$30,000 according to the facts and figures in the Department of Education.

SENATOR ST. JEAN: I rise in support of Senator Disnard and I do so because, as we recall three years ago when foundation aid came into being there was a one vote difference in this chamber and how quickly some of the members forget one of those votes. One of those votes was my vote and I knew full well at the time that the city of Manchester was going to be penalized under the foundation aid formula to the tune of, I think, \$650,000 and now I see some holier than tho individuals standing up and saying we ought not to be tinkering in any way with the foundation aid formula. There wouldn't have been a foundation aid formula if the Senator from district 20 didn't vote the interest of the state as a whole and not his particular district and I commend Senator Nelson and Senator Disnard on their work. I think this bill ought to be passed and send it down to Senate Finance so that we can look at the full and fair funding of foundation aid.

SENATOR HOUGH: I also rise in support of the substitute motion as introduced by Senator Disnard. I do that recognizing the con-

cerns of Senator Bond and Senator Johnson and understanding some of the information that they are trying to address. Last week, the committee on Education started at ten o'clock in the morning and went till the early hours of the evening dealing with the immediate larger bill of dropout prevention. Unfortunately and regrettably, that day Senator Nelson was ill and could not attend. All of the day's activities on that bill, including the work session, was between Senator Bond, Senator Johnson, Senator Disnard and myself. After an exhausting day, where I think we hammered out an amendment which you will be able to support on the dropout prevention bill, which is coming up later; we expected other bills. At the time, Senators Bond and Johnson wanted to report inexpedient, I had tried to have them agree to amending the bill leaving a dollar in it and referring it to Finance. I had tried to have them consider amending the bill putting various study committee language on to the bill. All to no avail. I made a tactical error in that I should have held out that we report this bill on to the floor with no report because I had indicated to Senator Nelson, a day or two before, that I would agree with her position to keep this bill alive so that we could look at it in relation to all the education bills. I made a mistake in agreeing to vote three to one for inexpedient. I talked to Senator Nelson, I apologized to her, I think that all of us in this chamber understand that we get caught up in many issues and sometimes do make errors. I told Senator Nelson that I would support a substitute motion to bring this into Finance, more importantly, other than allowing me to remain true to my word to Senator Nelson, I think you should understand that here's a bill relative to support of local education. We suspended the rules in the rules committee last week for an introduction of a bill relative to the subject of excess sweepstakes revenue that has been in the press and a subject that has surfaced in the last 30 to 60 days. We have bills dealing with catastrophic aid and of supplemental appropriations to catastrophic aid. We have bills dealing with school building aid. The whole question of education in our continued support and seeing that the revenues generated through the sweepstakes commission ultimately get back to the local communities, is a subject that both the policy committees in the Senate and the policy committees in the House plus the committee members on the House Appropriation that deal with education, some of whom are in the balcony here today, and the members of the Senate Finance that deal with education have all been talking, discussing, working with our staff and we hope to be able to come out of this session with a piece of legislation that will address many of the areas that need adjustment dealing with the subject of state support of local education. For that reason Senator Nelson's bill should be in

the possession of the Senate Finance committee along with a number of other pieces of legislation so that we can continue to work amongst ourselves and with our colleagues in the House and come up with an education bill, in this second year of the biennium, that continues the momentum that was established last year with the new biennial budget and the emphasis towards education. For that reason I wish you would vote in support of the substitute motion of ought to pass and this bill will then be referred to Senate Finance where it will be very cautiously looked at along with all the other education subjects.

SENATOR WHITE: I rise in support of the pending motion. Two years ago I sponsored the tri-state megabucks and I think that that has greatly enhanced the revenue that goes into this particular fund and as Senator Disnard said there's much more money in it now than we ever dreamt there would be, so I would hope that you could send it to Finance and let them look at the figures.

SENATOR DISNARD: Senator Hough, would you believe in my zeal to mention Senators that I left off, Senator Pressly of Nashua is also very interested in this.

SENATOR HOUGH: Senator Disnard, I would answer that saying, I know you to be a very fiercely partisan person and I can't believe that you'd ever omit a fellow democrat in supporting your legislation.

SENATOR JOHNSON: I'm speaking for the first time on the pending motion, I'd just like to make that clear. I hear all this comment about sending this SB 289 to Senate Finance. I refer you to the second page of this bill and let me quote it; 'the Department of Education has determined that this bill will have no fiscal impact upon state, county or local revenues and expenditures'. The methodology, the department indicates that this bill will not affect the total amount of foundation aid distributed but, will change the method of distribution resulting in a shift of local revenue from community to community. So, this bill has no business going to Senate Finance. This is a straight policy statement, having no fiscal impact whatsoever. I'd like to urge the defeat of this motion. I say again, we have a study committee now that is looking at this and we should not prematurely do this and shift the money away from the Pittsfields, the Farmingtons, the Rochesters, the Claremonts, the Berlins, the Raymonds, the Freemonts and so forth. Hold to the notion of fairness and equity that we've already established by this body. Senator St.

Jean should be proud of the fact that he supported a bill that establishes fairness and equity in the manner in which state money is distributed. I'd like to remind this body that there are other state funds going to public education. Building aid, which does not have any kind of formula attached to it although there certainly are members in the House who would like to do that, having a formula attached to it. Vocational tuition and transportation doesn't have any and I agree with that, that should not be changed. But, the foundation aid formula that we passed should not be changed prematurely at this time.

SENATOR DUPONT: Senator Disnard, I'm from one of the poorer communities and naturally I have some concern about this bill's potential to take revenues away from my communities, but on the same token, I'm really concerned that the committee did an injustice to Senator Nelson by not allowing her an opportunity to address a very, very important bill to her. I'd just like to make sure that it's clear to the rest of the Senate that she did not have an opportunity to address this bill and that really the committee did an injustice to her. That may be a too hard a word to use, but I think at this point in time it should be made clear to the Senate that she did not have an opportunity to be a part of this bill.

SENATOR DISNARD: You're correct, injustice to Senator Nelson.

SENATOR NELSON: I certainly appreciate my colleague's courtesy and I'd just like to say one sentence because I think the chairman of the committee has said it well, as Senator Hough said, and I appreciate everyone saying this. The bill is not an attempt to change the formula. If, in fact, the State of New Hampshire, at this time, can not fund the formula so that all districts are receiving the biggest chunk of aid to education in the state, then I suggest we hold harmless. I'm asking that the bill go to Finance, I was not there that night and I will be responsible for the fact that I had the flu, I'm just asking that these people have the opportunity to take a look at this bill in Finance. Thank you very much.

Motion adopted. Referred to Finance (Rule #24).

SB 294-FN, relative to the catastrophic aid formula. Ought to Pass with Amendment. Senator Hough for the Committee.

SENATOR HOUGH: I rise in support of the committee's report of ought to pass with amendment. Here again, this bill further keeps up with promises made during the conference on our biennial

budget wherein we understood the appropriation level for the first year of the biennium would be an approximate appropriation. Under the new legislation relative to catastrophic aid a number of items in the statutes were referenced changing it and this summer we found out that we had omitted one area. The bill, as it's drafted, addresses this final area in the statute to make it consistent with the new law. Then of the monies that were appropriated this fall, the department determined in late fall that the appropriation was in the vicinity of 91% of the demand and with the new thresholds and the thresholds being indexed it was agreed that we would fully fund our obligation, we had an appropriation act, it was 91% of the demand and the department used an old 1982 law to distribute the funds inequitably.

The second part of this piece of legislation addresses a pro-rata distribution when the policy decision is to fully fund the state's obligation to catastrophic aid. That's what the bill does, as you have it, and we support passing this bill at this time.

SENATOR CHANDLER: Senator Hough, I'm a little bit confused on this because I was always of the opinion that catastrophic aid generally refers to somebody that has cancer or something like that. Is this a catastrophic aid for education or what? I don't understand it.

SENATOR HOUGH: This is a bill relative to the aid to local school districts for those individuals that fall within the education catastrophic aid program. This is a program that we've had for a number of years, this is the section of the budget where we changed the local communities obligations to, I believe, 3 and a half times the most recent per pupil cost. It would be indexed out in the future and if we did that there was an agreement with the Governor's office to fully fund that obligation. So, this is an adjustment of a program that we've had on the books for a number of years.

SENATOR CHANDLER: In what way would the money be considered to be catastrophic?

SENATOR HOUGH: This is aid to districts who have pupils, if you would, that have a severe, either physical or learning disabilities. I yield to Senator Disnard.

SENATOR DISNARD: Senator Chandler, in the education area, there are students who are severely handicapped and have to be assigned to institutions or some other area to assist them with speci-

alities and therefore their instructions. Some of these students cost a school district over \$100,000. High cost special ed students to assist them to overcome their handicaps are referred to as catastrophic because the cost is catastrophic. So, it's only referring to the school districts.

AMENDMENT TO SB 294-FN

Amend RSA 186-C:18, III, as inserted by section 2 of the bill by replacing it with the following:

III. The state shall appropriate not less than \$1,000,000 for each fiscal year to assist school districts in meeting catastrophic cost increases in their special education programs. The state board of education through the commissioner shall distribute aid available under this paragraph to such school districts as have a special education pupil for whose costs they are responsible, for whom the costs of special education in the fiscal year exceed 3-1/2 times the state average expenditure per pupil for the school year preceding the year of distribution. The amount to be distributed to a school district under this paragraph shall be determined through the following [formulae] formula:

$$\frac{[(a) \text{ State equalized valuation per pupil}^2]}{\text{District equalized valuation per pupil}} \times$$

$$\frac{\text{Cost of catastrophic aid students in district}}{\text{District catastrophic aid factor}} =$$

$$\frac{(b) \text{ District catastrophic aid factor}}{\text{State catastrophic aid factor}} \times$$

$$\frac{\text{Catastrophic aid appropriation}}{\text{District catastrophic aid share}} =$$

$$\frac{\text{Cost of catastrophic aid students in district}}{\text{Catastrophic aid appropriation}} \times$$

$$\frac{\text{Total cost of catastrophic aid students in state}}{\text{District catastrophic aid share}} =$$

provided that the amount of catastrophic aid per pupil for a district requiring such aid shall be not more than 80 percent of catastrophic costs exceeding [\$9,000] 3-1/2 times the state average expenditure per pupil for the school year preceding the year of distribution [per pupil] for that district. If there are unexpended funds appropriated

under this paragraph at the end of any fiscal year, such funds shall be distributed according to the equalizing [formulae] formula established in paragraph II. The "cost of catastrophic aid students in district" as used in this paragraph shall include the total cost, i.e., both the 3-1/2 times the state average expenditure per pupil for the school year preceding the year of distribution which must be exceeded to be eligible for aid under this paragraph and any sums in excess of such expenditure limit. The state may designate up to \$250,000 of the funds which are appropriated as required by this paragraph, for each fiscal year to assist those school districts which, under guidelines established by rules of the state board of education, may qualify for emergency assistance for special education costs. Upon application to the commissioner of education, and approval by the commissioner, such funds may be accepted and expended by school districts in accordance with this chapter; provided, however, that if a school district has received emergency assistance funds for certain educationally handicapped children, it shall not receive catastrophic funds for those same educationally handicapped children. If any of the funds designated for emergency assistance under this paragraph are not used for such emergency assistance purposes, the funds shall be used to assist school districts in meeting catastrophic cost increases in their special education programs as provided by this paragraph.

Amendment adopted. Referred to Finance (Rule #24)

SB 334-FN-A, establishing a comprehensive literacy and dropout prevention program and making an appropriation therefor. Ought to Pass with Amendment. Senator Johnson for the Committee.

SENATOR JOHNSON: It's almost unfair to have to report this bill after the previous go around here. I feel like I need to go to the gas station and get filled up here. I'll do the best I can, nonetheless.

The purpose of this bill is to increase our attention and increase our efforts to develop literacy skills in the public schools of New Hampshire. Senator Disnard, the sponsor of this bill, has dedicated most of his adult life to public education and for that he deserves our admiration and our respect. Senator Disnard has also dedicated a significant amount of time developing the bill that you have before you today. According to Senator Disnard, this is the ninth or tenth revision, so this bill has received a lot of scrutiny so far and will probably receive a lot more in the legislative process. I'd like to make it clear that what I'm talking about now is the bill as amended

and I think it's in its entirety in the calendar here now. Before I proceed I'd also like to remind the Senators, I have passed out an outline here that I have used in discussion of this bill. If it's helpful to you, fine; if it's not, do whatever you wish with it.

I'd just like to point out that the assumption behind this bill is that the absence of literacy skills leads to poor academic achievement and hence dropouts from the public school system. I'd like to now walk through this bill with you to make sure that we're all clear on really what we have before us today. Section one is a statement of policy and we talk about literacy skills, we're really talking about reading, writing and arithmetic, speaking, listening and reasoning. I offer you a mnemonic device for remembering those six literacy skills, the letters LSR plus the 3 R's. In regard to the statement of policy, Senator Bond called for the removal of statements which were really not statements of policy and those have been eliminated. I'd like to remind the body that there are appeals provided for throughout the body of this bill here and I'll just make the generalized statement that the appeals are there. In regards to the labor laws, which we'll come to, if the appeal was not resolved by the school district it would go to the labor department.

Section two basically provides rulemaking authority for the department of education to administer this subsection. The real heart of the bill is literacy instruction and dropout prevention. So, we have a whole new subdivision here consisting of seven subsections. It's my understanding that we're dealing with one of the most significant educational policy bills here and it's my intent to try to acquaint everybody with the bill that's been changed a great many times. I refer now to page two, 189:52, the identification of children at risk and what this basically says is all school districts that provide instruction are required to diagnostically screen students upon their first entry into the graded structure of New Hampshire. To fund this screening program there shall be annually appropriated a sum equal to the projected entering enrollment multiplied by no less than \$15. This amount of money would go to all the school districts on a per student basis and without any strings attached. I think we should all feel good about that. And :53, literacy skill development in the elementary grades; all school districts which provide elementary education shall have instruction in literacy for all students and through grade three. All the instructions shall be designed to assist the students to achieve literacy and I think that's basically a reiteration of what most of our public schools are doing today.

189:54 talks about literacy instruction for educationally disadvantaged students. An educationally disadvantaged student is essentially defined as meaning that a student is not achieving minimum standards or not achieving according to his potential which presumably a cognitive skills test would have demonstrated. So, now then, in the absence of this demonstrated achievement, the bill sets in place two sanctions. The first is, that a student age 16 or 17 can not voluntarily leave school as is presently permitted. Secondly, a student age 16 or 17, otherwise eligible to apply for a driver's license, would not be permitted to do so. So, what really happens in the bill that we have before us now is that the local school board would determine the minimum standards and would select the test to be used. The testing instruments would be subject to approval by the state board of education.

In roman three, on page 4, it begins by saying; all school districts shall and then parenthetically, to the extent of state funding, shall provide supplementary literacy instruction and calls for providing this to the most educationally disadvantaged first. It goes on in that same roman three to talk about primary grades intensive development of literacy skills. Grades four to eight calls for remediation for those students who have fallen behind. Grades nine to ten calls for intensive remediation for those students who are still behind. There is an appropriation that's called for in this legislation of not less than \$1.4 million to provide the money for what some may consider a new state mandate but, in any event, there is funding associated with this.

In order to access that money, individual school districts would have to submit a proposal showing what they were going to do. I'd like to emphasize that this money is available only to supplement existing efforts and not replace existing efforts. We now have in the department of education an office of dropout prevention, this bill calls for a \$250,000 appropriation to assist schools in developing dropout prevention programs.

On page 6, :56, the bill calls for establishing an advisory council on literacy and dropout prevention. I think that one of the things that could be considered along the way would be to change the effective date, which according to the version that we have before us is July 1, 1989, at least change the effective date for the advisory councils so to get that body in motion and organized as soon as possible. We have over on page 7, and let me call your attention to this in particular, the way the bill's written at this time, section four, the achieve-

ment score is necessary for driver's licenses. In the previous portion of the bill, it called for the local school district to determine the testing instrument to be used for achievement and for local school districts to determine the level of performance before which the sanctions would apply. In section four now, there is a change in that and under the special requirements for minors to obtain a driver's license and we're now amending the department of safety's RSA. Under this section four, achievement scores necessary for a driver's license, the department of safety RSA has been amended now to require that any person under the age of 18 years will not be issued a driver's license unless he presents an official record showing that his scholastic achievement is in compliance with the provisions of RSA 189:54, which we covered on page 3.

Section 5, youth employment hours of work, basically section 5 recognizes that the primary responsibility of a high school student is his education and thus establishes new limits on the number of working hours and the times and days these hours can be worked. The minimum age is now 14 and not 12.

SENATOR MCLANE: This bill is just like the AIDS bill that we had in the last session. I had a very interesting discussion with the young woman who was here from St. Paul's School studying government and I said to her, what do you do when you have a bill that is two-thirds good and one-third awful? She said you probably vote for it. I would like to object to the inclusion in this bill of the part that calls for a test to be taken by young people before they can receive a driver's license. This idea didn't come from educators that work with young people that are having a hard time learning or are in danger of dropping out. In the same way that the AIDS required premarital testing did not come from those public health officials that work with AIDS and the threat of AIDS. When this bill came before the Senate, I turned to my daughter, Robin, who has worked for six years in the New Hampshire school systems with kids that are in threat of dropping out. First at Rundlett Junior High and secondly in Dover with a group called the Ropes Program, reaching our potential. This group climbed Mt. Washington, they walked the 18 miles of our seacoast and they camped out in the middle of winter. They learned something from it and it was a positive educational experience. The cost of that program is about \$10,000, more than the cost of the main educational system. This bill would also cost money but, what I dislike about this bill is that John Sununu got a bright idea in his mind and down from on top comes a suggestion and you can either take it or not take it. There was no mention of teenage

pregnancy, which is one of the main causes of dropout but, perhaps if Sununu's section of the bill survives the House, the fact that kids don't have cars will mean that their aren't any back seats and that will be a teenage pregnancy prevention method. What these kids need is an improvement in their self esteem. Over half of the boys and 85% of the girls at YDC have been sexually abused and yet this bill must not discuss that problem with self esteem. Mr. President, I'm somewhat reminded of the little boy who's mother told him that he had to eat his spinach in order to get the dessert. And, he said, all right I'll eat my spinach but you can't make me like it. And, that's the way I feel about this bill. In order to get those sections that add money to a very serious problem, I'm going to vote for this bill, but you can't make me like that section that has to do with forcing young people in a state with no public transportation to have to pass a test before they can receive their driver's license.

SENATOR HOUNSELL: I've spent quite a bit of time today looking at this and I can't specifically point to a strong reason to oppose it except that there's something within me that doesn't like this bill. It is not, in any way, shape or manner in line with the reasons that Senator McLane doesn't like this bill. I think one of the things that might make me like that is that educators didn't necessarily come up with it. But what I don't like about this bill is that it seems to me that you're holding students as a captive audience and education comes from a Latin word which means to extract and somewhere, sometime soon, we're going to have to address how can we make education attractive. Something that students want to stay with. If this was a House bill and this was final action on this, I would probably fight hard against the language that's before us, but I do think that it's well intended and it's got a ways to go yet. I stand in uncomfortable support of this legislation.

SENATOR DISNARD: I'd just like to call the attention of this body to the fact that the Senate Education committee last week held on this bill, it's not a bill that happened overnight and Democrat Disnard is not an errand boy, Senator McLane, for the Governor. We believe that there are good areas in this bill and most of the objectionable areas have been extracted. I'd like to point out to you that this bill does have the support of labor, the BIA, the Principals Association, the hospitality, the School Board Association, as we just heard, the Governor, the President of the Senate, the Speaker of the House, parents and Education committee. Senator McLane, in the upper valley there's a newspaper called the Valley News. Last night they were quoting some students by name. They were quoting form

a Jason and a Harold who were getting D's and C's and they were talking about the license provision for testing to obtain a license. And Jason said, and Jason must be a very bright young man, if there were a law you'd work harder in school, if I knew that I was going to get my driver's license right away, I'd get straight A's. So, I think there is some support for this and I won't take more of your time with it, those who have questions I'd like to meet privately and even take them out to dinner to try and explain all portions of the bill.

SENATOR HEATH: I didn't intend to speak on this, but I wanted to reply a little bit to some of Senator McLane's reservations. I spent time teaching classrooms in Arizona for the federal government on an Indian reservation, New York State and New Hampshire. I can tell you for certain that automobiles make a difference and they are a motivation factor, they can be a motivating factor, parents have used it for the longest time. I've had parents tell me, you know I've taken the driving privileges away from my son or daughter because their grades have fallen, it's a motivating factor. We invest heavily in schools in this state, locally and more and more on the state level as we've demonstrated today, we mandate those kids should be in school until they're 16 and then we sort of start turning our back and a kid goes out and he doesn't like school and that's all he's seen of the world so he goes out and gets a job and he gets a little bit of money in his pocket and suddenly that seems better. What he doesn't understand is if he keeps that as the level that he jumps off the ship of education that's probably all he's going to make in his life. But, he gets a car and he's really not interested because now he's got all the wonderful things of the adult world, of course he's living at home still, usually, so he hasn't really experienced the adult world but, that's when they start drifting away from school, seeing that there's no further purpose to it. This is a way to instill some reality, it's a way to put a carrot into the system instead of just a stick and I think that's one of the better provisions in this, as a matter of fact, and I urge my colleagues to support it.

Senator Blaisdell moved the question.

Adopted.

AMENDMENT TO SB 334-FN-A

Amend the bill by replacing all after the enacting clause with the following:

- 1 Statement of Policy.

- I. The state of New Hampshire is committed to the develop-

ment and maintenance of an educated and productive citizenry. To ensure this commitment, all persons should have an equal opportunity to acquire literacy, including basic reading, writing, speaking, listening, reasoning, and mathematics skills. The opportunity to access and acquire these skills should be provided through a variety of educational programs and methods to meet the different needs and abilities of children and youth. Special effort should be made to accommodate the literacy requirements of a typical or handicapped learners, and preventative measures should be taken to assure that students do not drop out of school.

II. Important to success in literacy training is that the student be alert and healthy during the instructional period. Permissive child labor laws which can lead to fatigue should be modified to allow for the need for work experience only during appropriate work periods for the health and welfare of the child.

2 New Subparagraph; Rulemaking. Amend RSA 21-N:9, II by inserting after subparagraph (u) the following new subparagraph:

(v) Administering the literacy education and dropout prevention program established in RSA 189:52058.

3 New Subdivision; Literacy Instruction and Dropout Prevention. Amend RSA 189 by inserting after section 51 the following new subdivision:

Literacy Instruction and Dropout Prevention

189:52 Identification of Children at Risk. All school districts that provide elementary or secondary instruction are required to diagnostically screen to the extent of state funding all children upon their first entry to the school graded structure at kindergarten, first grade, or a higher grade level, unless previously diagnostically screened, to determine their levels of educational readiness. Diagnostic screening should address the child's educational development and should be used to determine an appropriate program of instruction in the literacy skills of reading, writing, speaking, listening, reasoning, and mathematics. To fund this screening program, there shall be annually appropriated from the general fund to the department of education a sum equal to projected entering enrollment multiplied by no less than \$15. The state board shall notify the state treasurer of the amount to be appropriated. The treasurer shall then disburse the appropriate amount to the board for distribution to the school districts, based on projected enrollment. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

189:53 Literacy Skill Development in Elementary Grades. All

school districts which provide elementary education shall have instruction in literacy for all students through grade 3, including instruction in reading, writing, speaking, listening, reasoning, and mathematics. All instruction shall be designed to assist students to achieve literacy and to provide the opportunity for each child to learn according to his needs and his abilities as set forth by the state board of education in the minimum standards for New Hampshire public elementary schools.

189:54 Literacy Instruction for Educationally Disadvantage Students.

I. For purposes of this subdivision, an educationally disadvantaged child is one whose educational achievement is significantly less than his anticipated performance in reading, writing, speaking, listening, reasoning, and mathematics as determined by cognitive measurements approved by the commissioner of education. The commissioner of education shall annually designate cut-off points for the state-wide level of supplemental services, based upon achievement test results related to anticipated performance levels in reading, writing, speaking, listening, reasoning, and mathematics.

II. In order to be eligible to leave school voluntarily at age 16 or 17, or be eligible for a driver's license, a student shall demonstrate an achievement level as determined by his local school board, commensurate with his cognitive skills as demonstrated on tests selected by the local school board and approved by the state board of education. Students who reach 16 years of age prior to the administration date of a tenth grade achievement test shall be given a locally selected achievement test, approved by the state department of education, to determine eligibility for a driver's license or for voluntarily leaving school.

III. All school districts shall, to the extent of state funding, provide supplementary literacy instruction for educationally disadvantaged students through grade 12. Services shall be provided first to those who are determined to be most educationally disadvantaged. Services shall focus on instruction in reading, writing, speaking, listening, reasoning, and mathematics. Program emphasis shall include in:

(a) Primary grades, intensive development of literacy skills, based upon the individual child's literacy knowledge.

(b) Grades 4-8, remediation in literacy, accomplished through small group instruction and individualized remediation.

(c) Grades 9-12, intensive remediation in literacy, accomplished through prescriptive remediation in small groups or individualized setting.

IV. The costs for intensive literacy development in kindergar-

ten through grade 3 for districts with kindergarten, and first grade through grade 3 for districts without kindergarten, and remediation in grades 4-11 shall be funded by an annual appropriation of no less than \$1,400,000 to the department of education. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated. The department of education shall allocate this appropriation among school districts based upon program plans submitted annually by the local school districts to the department of education, pursuant to paragraph v of this section.

V. Programs for supplementary literacy instruction for educationally disadvantaged students in primary through twelfth grades shall meet the following criteria, and shall be included in an annual plan submitted to, and subjected to the approval of, the department of education:

- (a) Services shall be based on an annual assessment of need.
- (b) Programs shall have performance objectives evaluated annually.
- (c) Plans shall provide detail on the types of supplementary services they may require.

Programs shall be provided technical assistance and monitoring by the department of education to the extent possible. School districts shall maintain records on the above criteria and allow access to records by the department of education.

VI. Funds allocated under this section shall be used to supplement, not replace, existing instructional activities. The commissioner of education may waive the requirement for use of all or part of these funds if it is shown to his satisfaction that the on-going level of literacy instruction meets the standards set for student achievement.

VII. A person aggrieved by a determination made pursuant to this subdivision may appeal in order to demonstrate hardship or extenuating circumstances. Such appeals shall be handled in an expeditious manner through the administrative process ordinarily used by a local school district to resolve controversies between individuals and the local education agency.

189:55 Dropout Prevention.

I. The department of education shall underwrite the costs of selected school district programs or services that address the academic, social, or personal needs of potential school dropouts. Proposals shall be funded through the office of dropout prevention.

II. These programs shall be funded by an annual appropriation of not less than \$250,000 to the department of education. The governor is authorized to draw his warrant for said sum out of any money in the treasury no otherwise appropriated. Project proposals shall

be selected and funds allocated through the office of dropout prevention at the discretion of the commissioner of education. These funds shall supplement, not replace, local, state or federal program funds expended for these purposes.

189:56 Advisory Council on Literacy and Dropout Prevention. There is established a state advisory council on literacy, dropout prevention, and youth employment. The council shall be composed of 11 members, 9 of whom shall be appointed by the governor; one of whom shall be a member of the house of representatives, appointed by the speaker; and one of whom shall be a member of the senate, appointed by the president of the senate. The members shall have demonstrated an interest or expertise in programs for educationally disadvantaged students. The non-legislative membership shall include teachers, parents, administrators, school board members, and representatives of labor, business and industry. Members of the council shall be residents of this state and shall serve without compensation. Non-legislative members shall serve without compensation. Non-legislative members shall serve at the discretion of the governor. The function of the advisory council is to advise the governor, the general court, state board of education, and the commissioners of education and labor on matters pertaining to literacy, dropout prevention, and youth labor and employment. The advisory committee shall develop and submit a biennial report on literacy, dropout prevention, and youth employment to the governor, the president of the senate, the speaker of the house, the state board of education, the department of labor, and the commissioners of education and labor. The department of education shall provide administrative support for the council.

189:57 Coordination with Special Population Programs. Educational and youth employment programs serving special population students shall be coordinated with the requirements of this subdivision. All such programs shall emphasize the literacy, dropout prevention, and youth employment objectives in this subdivision to the extent appropriate for the students in each program. All such coordinating efforts shall not exempt participating school districts or public or private employers from meeting all requirements of the state or federal laws.

189:58 Rulemaking. The state board of education shall adopt rules pursuant to RSA 541-A, relative to the procedures and guidelines necessary to effect the purposes of this subdivision.

4 Achievement Scores Necessary for Driver's License. Amend RSA 263:17 to read as follows:

263:17 Special Requirements for Minors. No person under the age of 18 years shall be issued a driver's license unless the person's fa-

ther, mother, or guardian, or, in the event there is no parent or guardian, another responsible adult, gives written permission for the issuance of such license, insurance coverage is presented at the time of application or the person under 18 is emancipated by marriage. No person under the age of 18 years shall be issued a driver's license unless he presents an official record, showing this his scholastic achievement is in compliance with the provisions of RSA 189:54, II. A person aggrieved by a determination made pursuant to this section may appeal in order to demonstrate hardship or extenuating circumstances. Such appeals shall be handled in an expeditious manner through the administrative process ordinarily used by a local school district to resolve controversies between individuals and the local educational agency.

5 Youth Employment; Hours of Work. RSA 276-A:4, IV is repealed and reenacted to read as follows:

IV. (a) No youth 16 or 17 years of age who is duly enrolled in school shall be employed or permitted to work earlier than 7 o'clock a.m. or later than 9 o'clock p.m., more than 4 hours per day Monday through Thursday, and 8 hours per day Friday, Saturday and Sunday, provided that such a youth shall not be allowed to work later than 6 o'clock p.m. on Sunday, and shall be limited to a total of 36 hours per week during school weeks. During school vacations a youth 16 or 17 years of age may work 8 hours per day for a total of 48 hours per week.

(b) No youth under 16 years of age shall be employed or permitted to work earlier than 7 o'clock a.m. or later than 7 o'clock p.m., more than 3 hours per day Monday through Friday, 8 hours on Saturday and 5 hours on Sunday, provided that such a youth shall not be allowed to work later than 6 o'clock p.m. on Sunday, and shall be limited to 23 hours per week during school weeks. During school vacations youths under 16 years of age may be employed 8 hours per day for a total of 40 hours per week.

(c) Work training during or after school hours shall be permitted for minors 14 through 17 years of age if the employer has on file an unrevoked signed written statement from the minor's school principal or work experience coordinator setting out the period during which the minor may work, and certifying that his employment shall be confined to those periods and shall not interfere with his health and well being. It shall also contain a statement signed by the principal of the minor's school that employment shall not interfere with the minor's schooling.

6 Age of Employment. Amend RSA 276-A:4, V to read as follows:

V. No youth under [12] 14 years of age may be employed or permitted to work except for his parents, grandparents, or guardian, or

at work defined in this chapter as casual, or in the door-to-door delivery of newspapers.

7 Certificate. Amend RSA 276-A:5, I to read as follows:

I. Certificates shall be issued by principals of schools or persons authorized by them, except that responsibility for supervision and coordination with the department in matters pertaining to this chapter shall rest upon superintendents of schools. With exception for locally determined cases of extenuating circumstances, work certificates shall be issued by school principals to students who have completed the eighth grade and who have attained a composite score on a grade 8 state approved test at a performance level determined by the state board of education. Continued employment shall be contingent on successful performance by the student in his program of studies. In the event satisfactory performance as determined by local school board policy, is not being maintained, the work certificate may be revoked by the principal.

8 New Section; Appeal. Amend RSA 276-A by inserting after section 5 the following new section.

276-A:5-a Appeal of Decisions. A person aggrieved by a determination made pursuant to RSA 276-A:5, I may appeal in order to demonstrate hardship or extenuating circumstances. Such appeals shall be handled in an expeditious manner through the administrative process ordinarily used by a local school district to resolve controversies between individuals and the local educational agency. Any person not satisfied by this appeals process may appeal to the commissioner of labor through an appeals procedure established pursuant to RSA 276-A:8.

9 Penalty. Amend RSA 276-A:7 to read as follows:

276-A:7 Penalties. With the exception of a parent, grandparent or guardian, whoever employs a youth or permits him to work in violation of the provisions of RSA 276-A, shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person. In addition, such a person shall be liable for a civil penalty not to exceed \$1,000 for each violation of this chapter.

10 Repeal. RSA 275:15-27, relative to hours of labor for minors and females, are repealed.

11 Effective Date. This act shall take effect July 1, 1989.

Amendment adopted. Referred to Finance (Rule #24)

Recess.

Out of Recess.

Senator Hounsell in the Chair.

SB 343-FN, relative to liability for expenses of children under the supervision of the division for children and youth services. Ought to Pass with Amendment. Senator Bond for the Committee.

SENATOR BOND: SB 343 is relative to the liability for expenses of children under the supervision of DCYS. Under SB 1 as we passed two years ago, children who are incarcerated in an institution under the supervision of DCYS, if they escape from that institution and are involved in trouble and become the charge of a court within the area where they are being incarcerated, then they become the expense of the county where they are incarcerated not from whence they came. The effect of this bill will be to keep their accountability with the county where the original charges were brought and from whence the youngster was sentenced. The committee recommends ought to pass with amendment.

The amendment clarifies the situation such as the Jaffery, Rindge, Peterborough court which sits in one county but deals with youngsters from more than one county.

AMENDMENT TO SB 343-FN

Amend the bill by replacing section 4 with the following:

4 Liability for Expenses. Amend RSA 169-B:40, IV to read as follows:

IV. Notwithstanding paragraph I, the county [in which the court is located] from which the child was referred to the court which issued the order creating liability for expenses for the child shall be responsible for reimbursing the state for up to 25 percent of the costs incurred under this chapter. When determining the amount of reimbursement, all services for which the county would be liable if it were the legally liable unit shall be included, except services which are already the responsibility of the appropriate school district under RSA 186-C.

5 Liability for Expenses. Amend RSA 169-C:27, IV to read as follows:

IV. Notwithstanding paragraph I, the county [in which the court is located] from which the child was referred to the court which issued the order creating liability for expenses for the child shall be responsible for reimbursing the state for up to 25 percent of the costs incurred under this chapter. When determining the amount of reimbursement, all services for which the county would be liable if it

were the legally liable unit shall be included except services which are already the responsibility of the appropriate school district under RSA 186-C.

6 Liability for Expenses. Amend RSA 169-D:29, IV to read as follows:

IV. Notwithstanding paragraph I, the county [in which the court is located] from which the child was referred to the court which issued the order creating liability for expenses for the child shall be responsible for reimbursing the state for up to 25 percent of the costs incurred under this chapter. When determining the amount of reimbursement, all services for which the county would be liable if it were the legally liable unit shall be included except services which are already the responsibility of the appropriate school district under RSA 186-C.

7 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted. Ordered to Third Reading.

SB 315-FN, relative to appeals from the personnel appeals board. Ought to Pass with Amendment. Senator Freese for the Committee.

SENATOR FREESE: This bill changes the procedure for appeals made from decisions or actions taken by the personnel appeals board. The bill as amended also changes the qualifications for members of the personnel appeals board and increases the remuneration paid to them.

You can find the amendment on page 18 of today's calendar. The bill also specifies the manner in which an allocation review is to be conducted by the board and, under this bill the board is prohibited from creating new job classifications or job titles. The bill also clarifies the amount of pay due upon reinstatement. Many of you know that the personnel task force is under way with regard to setting up a new system and this appeals board qualification bill is one of the recommendations of the personnel task force.

I do have an amendment and if you will count down ten lines, from the top of page 19, to the right you'll see that there is an error there. It says, during the period of if, and 'of' shouldn't be there and I believe the amendment has just been passed out. When the time comes to amend the amendment I would like to make a motion that we adopt the amendment too.

AMENDMENT TO SB 315-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the personnel appeals board.

Amend the bill by replacing all after the enacting clause with the following:

1 Qualifications for the Board. Amend RSA 21-I:45, I and II to read as follows:

I. The board shall consist of 3 members, not more than 2 of whom shall be from the same political party. There shall also be 2 alternate members of the board, not more than one of whom shall be a member of the same political party. At least 2 members of the board shall have been gainfully employed as a labor relations or personnel professional for a minimum of 5 years. One member shall have been employed within the public personnel field of employment for a minimum of 3 years. Each member and alternate shall be appointed by the governor with the consent of the council for a term of 3 years, and a person appointed to fill a vacancy shall be appointed for the unexpired term. Each member of the board and alternate shall hold office until his successor is appointed and qualified. The governor shall designate one member as chairman of the board. The board shall elect one member to serve as vice chairman. Either the chairman or vice chairman shall be a member of the New Hampshire bar. No member of the board shall be a member of any state or national committee of a political party, nor an officer or member of a committee in any partisan political club or organization, nor shall hold, or be a candidate for, any remunerative elective public office during his term of office and shall not be otherwise employed in any of the agencies of the state government. [One member shall be a member of the bar in this state.]

II. Members of the board shall each be paid [\$35] \$100 for each day devoted to the work of the board, but not more than [\$1,500] \$5,000 each in any one year. They shall be reimbursed for necessary [travel] expenses in connection with their official duties. [The compensation of board members shall be reviewed annually.]

2 New Paragraph; Limitation. Amend RSA 21-I:46 by inserting after paragraph VIII the following new paragraph:

VIII-a. The board shall be limited to existing job titles within the classification plan when rendering decisions regarding appeals of denial of reclassification. The board is explicitly prohibited from creating new job classifications or job titles.

3 Allocation Review. RSA 21-I:57 is repealed and reenacted to read as follows:

21-I:57 Allocation Review. The employee or the department head, or both, affected by the allocation of a position in a classification plan shall have an opportunity to request a review of that allocation in accordance with rules adopted by the director under RSA 541-A, provided such request is made within 15 days of the allocation. If a review is requested by an employee, the director shall contact the employee's department head to determine how the employee's responsibilities and duties relate to the responsibilities and duties of similar positions throughout the state. The employee or department head, or both, shall have the right to appeal the director's decision to the personnel appeals board in accordance with rules adopted by the board under RSA 541-A. If the board determines that an individual is not properly classified in accordance with the classification plan or the director's rules, it shall issue an order requiring the director to make a correction.

4 Appeals From Decision of Personnel Appeals Board. RSA 21-I:58, I is repealed and reenacted to read as follows:

I. Any permanent employee who is affected by any application of the personnel rules, except for those rules enumerated in RSA 21-I:46, I and the application of rules in classification decisions appealable under RSA 21-I:57, may appeal to the personnel appeals board within 15 calendar days of the action giving rise to the appeal. The appeal shall be heard in accordance with the procedures provided for adjudicative proceedings in RSA 541-A. If the personnel appeals board finds that the action complained of was taken by the appointing authority for any reason related to politics, religion, age, sex, race, color, ethnic background, marital status, or handicapping condition, or was taken in violation of a statute or of rules adopted by the director, the employee shall be reinstated to the employee's former position or a position of like seniority, status, and pay. The employee shall be reinstated without loss of pay, provided that the sum shall be equal to the salary loss suffered during the period of denied compensation less any amount of compensation earned or benefits received from any other source during the period. "Any other source" shall not include compensation earned from continued casual employment during the period of if the employee held the position of casual employment prior to the period, except to the extent that the number of hours worked in such casual employment increases during the period. In all cases, the personnel appeals board may reinstate an employee or otherwise change or modify any order of the appointing authority, or make such other order as it may deem just.

5 Pending Appeals. All appeals pending under RSA 21-I:57 on the effective date of this act shall be reviewed by the director of personnel. The director shall decide where the position under appeal shall be allocated under the new position classification plan developed under RSA 21-I:42, II. Appeals from decisions under this provision shall be in accordance with RSA 21-I:57.

6 Qualification and Terms of Current Board Members. Notwithstanding RSA 21-I:45, I as amended by section 1 of this act, the members of the personnel appeals board on the effective date of this act shall serve the remainder of their terms. The new qualifications of board members shall be applied to the new appointees.

7 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted.

Senator Freese offered a floor amendment.

SENATOR FREESE: It takes out those pages in the amendment to correct one word and the word, as I explained before, is ten lines down on the right hand side where there was an error in the printing of the amendment in the calendar. What is does is eliminate the word 'of'.

SENATOR ST. JEAN: I rise to commend Senator Freese on putting this amendment together and working with some very diverse groups and actually going out of his way to put this legislation together. I congratulate him.

Floor Amendment to SB 315-FN

Amend RSA 21-I:58, I as inserted by section 4 of the bill by replacing it with the following:

I. Any permanent employee who is affected by any application of the personnel rules, except for those rules enumerated in RSA 21-I:46, I and the application of rules in classification decisions appealable under RSA 21-I:57, may appeal to the personnel appeals board within 15 calendar days of the action giving rise to the appeal. The appeal shall be heard in accordance with the procedures provided for adjudicative proceedings in RSA 541-A. If the personnel appeals board finds that the action complained of was taken by the appointing authority for any reason related to politics, religion, age, sex, race, color, ethnic background, marital status, or handicapping condition, or was taken in violation of a statute or of rules adopted by

the director, the employee shall be reinstated to the employee's former position or a position of like seniority, status, and pay. The employee shall be reinstated without loss of pay, provided that the sum shall be equal to the salary loss suffered during the period of denied compensation less any amount of compensation earned or benefits received from any other source during the period. "Any other source" shall not include compensation earned from continued casual employment during the period if the employee held the position of casual employment prior to the period, except to the extent that the number of hours worked in such casual employment increases during the period. In all cases, the personnel appeals board may reinstate an employee or otherwise change or modify any order of the appointing authority, or make such other order as it may deem just.

Floor amendment adopted. Ordered to Third Reading.

Recess

Out of Recess

Senator Bartlett in the Chair.

SB 256, relative to voting in special school districts. Ought to Pass. Senator Freese for the Committee.

SENATOR FREESE: This is enabling legislation and it will allow a special school district to dissolve at an annual meeting of which it is a part. The town of Lisbon has two school districts. It's the only town in the State that has two school districts within its boundaries. This bill also allows them a procedure to vote for one district instead of two.

In explanation of that, the Lisbon Regional School District is presently composed of the following preexisting school districts; Lisbon Special #1, Lisbon Town District #3 and Limon. Lisbon Special #1 includes the village area of Lisbon plus a small portion of Landaff, called Landaff Center. The need is to expand their education system to meet the demand for additional students and growth. Presently, there are also financial inequities that are caused because of the situation and when one district is created it will make state funding in the Augenblick formula much easier to distribute. Because of the town meeting in March, and their desire to have action taken at the 1988 town meeting, they asked us to amend the bill to be effective upon passage. The amendment got into the calendar without that note so, we just passed out an amendment to SB 256 and at the right time I'd like to be called on to move that.

Senator Freese offered a floor amendment.

SENATOR FREESE: I'd like to move at this time, the amendment to make the effective date of this act upon passage.

Floor Amendment to SB 256

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect upon its passage.

Floor amendment adopted. Ordered to Third Reading.

SB 304-FN, relative to the disposition of fines and forfeitures collected for violations of municipal ordinances, codes and regulations. Ought to Pass. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: SB 304 relates the disposition of fines and forfeitures collected for violations of municipal ordinances, codes and regulations. The key here are the words violations of municipal ordinances, codes and regulations. Most towns in this state have their own individual ordinances, codes and regulations. What is an ordinance in Salem is not necessarily an ordinance in Colebrook. This bill passed both the House and the Senate last year and was vetoed by the Governor who felt that as a result of the unified court system all fines should be turned back to the state. Well, the amount of money involved depends, to some extent, upon who you talk to. This bill will not cost the courts anything. All the fines will be sent back to the cities and towns are net. The court systems can deduct all expenses listed in section one of the bill. They already send checks in various amounts to different agencies of state government as different laws were effected so, it can not be said that they do not have the capability of cutting checks or sending them to various places. We urge you to support the committee's recommendation of ought to pass.

SENATOR ST. JEAN: Senator, in this legislation it says that the courts can deduct for expenses. How do we know that the courts may not be taking a little more than their due and not turning it over to the municipalities?

SENATOR DELAHUNTY: I suppose they have to be on their honesty.

Adopted. Referred to Finance (Rule #24).

SB 311, relative to licensing oil burner technicians and installers. Inexpedient to Legislate. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: SB 311 relates to licensing oil burner technicians and installers. The committee felt that there was not a need for this bill. This bill was meant to be a consumer bill, however, at the hearing there was no consumer representation and or support, nor was there a real demonstration of need for this legislation. We therefore urge your support to support the committee report of inexpedient to legislate.

Adopted.

SB 321-FN, relative to certificate of taxes and other assessments on real estate. Inexpedient to Legislate. Senator Freese for the Committee.

SENATOR FREESE: This is a bill that I sponsored and it provides that tax collectors in the cities and towns be required to furnish a certificate of all overdue taxes and other assessments and charges, such as liens on real estate and so forth, that are payable and that, such a certificate be filed with the registry of deeds in the county in which such a real estate is situated. Although the bill does have some merit, it turned out to be quite a controversial hearing and the bill also transferred responsibility and work to the tax collector who is already over burdened and away from the real estate attorneys whose paid job it is to search out the information through his or her client. On the other hand, the strength of the bill would provide buyers with an uninhibited purchase of real estate property free and clear of attachments and liens but, there was not time to work out the solution. Rather than place the bill into interim study, the committee recommended inexpedient to legislate and we suggest that their respective associations of real estate attorneys and tax collectors get together and work out an agreed bill if they feel this is important to them and they can bring it back at another time. So, even though it's my bill I'm recommending inexpedient to legislate.

Adopted.

SB 349-FN-A, to provide 2 additional field staff and additional equipment to the division of air resources for statewide air quality monitoring and making an appropriation therefor. Ought to Pass. Senator Disnard for the Committee.

SENATOR DISNARD: Since we have 47 bills left to go, I'll just say that this had unanimous support of a committee that was made up of

House and Senate members. Alden Howard, the commissioner of environmental services, came in and had total support of this bill. What it means is a one shot equipment monies to replace worn out equipment and additional staff person to assist the Nashua-Manchester area and one for Cheshire and Sullivan county. If you wish, I can go through the reasons for, but I want you to know that it had the total support of Alden Howard and the committee made up of people from both branches.

Adopted. Referred to Finance (Rule #24).

SB 352-FN, reestablishing the board of chiropractic examiners. Inexpedient to Legislate. Senator Disnard for the Committee.

SENATOR DISNARD: I'm happy to report the terms strength and mixes, both sides sat down and reached an agreement on the chiropractic situation and you know what I mean by a situation! Testimony from both groups indicated they wished to recommend this bill inexpedient; they have a bill in the House that answers all their needs.

Adopted.

SB 335-FN, relative to central business service districts. Inexpedient to Legislate. Senator Disnard for the Committee.

SENATOR DISNARD: Briefly, this bill called for large municipalities to be able to charge a fee for services not presently supplied by these municipalities. The committee had two problems. One, they felt that the business areas were paying enough taxes for services provided; but two, the bill referred to the central business area. In testimony, the central business area was quote, "the down town business area". There was strong concern that similar services, that groups would pay for, businesses was not being offered to other areas in a community such as a shopping center. There were concerns about possible suits and that's the reason for inexpedient to legislate.

Adopted.

SB 313-FN, providing a cost of living increase for NH retirement system members. Without Recommendation. Senator Bond for the Committee.

Senator Bond moved to vacate to Finance.

Adopted.

SB 316-FN, allowing certain group II retirement system members to continue to receive group medical insurance coverage for themselves and another designated person upon retirement. Inexpedient to Legislate. Senator Bond for the Committee.

SENATOR BOND: SB 316 was withdrawn at the request of the sponsor and the committee found it inexpedient to legislate.

Adopted.

SB 319, relative to cancellation of insurance policies. Ought to Pass with Amendment. Senator Freese for the Committee.

SENATOR FREESE: This proposed legislation as amended, and the amendment should be in the calendar on page 20, and it says that no insurance company may cancel any type of insurance policy for nonpayment of a premium if the insured provides evidence that the payment for the premium was mailed prior to the effective date and time of legal cancellation or that if it was mailed by certified mailed return receipt requested within the time of the legal cancellation. We hope you will support the committee report as ought to pass with amendment.

AMENDMENT TO SB 319

Amend RSA 402:80 as inserted by section 1 of the bill by replacing it with the following:

402:80 Cancellation of Policies. No cancellation of an insurance policy of any type for nonpayment of a premium shall be effective if:

I. Payment of the premium is actually received by the insurance company; and

II. Payment of the premium is sent by certified mail before the effective date and time of cancellation of the policy as stated in the notice of cancellation, or is received by the insurance company's agent before such date.

Amendment adopted. Ordered to Third Reading.

SB 320-FN, relative to health insurance for retired municipal employees. Interim Study. Senator Delahunty for the Committee.

SENATOR DELHAUNTY: SB 320 relates to health insurance for retired municipal employees. After hearing testimony, the committee felt that we could not afford to fund all the bills and that SB 327 was a higher priority. We, and the sponsor, therefore urge your support of the committee report of interim study.

Adopted.

SB 327-FN, eliminating the social security offset provision for Group I members for the retirement system. Ought to Pass with Amendment. Senator Freese for the Committee.

SENATOR FREESE: This is one of the most important bills of this session, SB 327 eliminating the social security offset for group I members. Ever since the present retirement system was created, state employees and teachers have been concerned about its integration with social security. When retirees reach the age of 65 their state pensions are reduced to a maximum extent allowable by federal law. As the social security wage base increases, that offset becomes even greater. Today's active teachers and state employees will be faced with a loss of as much as one-half of their state pension at age 65. This means that after 30 years of service they will receive a pension of only 25% of their salary upon retirement at age 65. Last year we passed SB 174, which established a joint committee of House and Senate to study the issue. The Senate members were Senators Dupont, Delahunty, Blaisdell and Freese. That study committee found that the integration of our retirement system with social security should be eliminated. It recommended that the present formula of calculating benefits prior to age 65 be continued throughout a person's retirement. At that time, we felt our recommendation was fair. That proposal contained, in SB 327, would result in increased liabilities of \$239.2 million. Since then, serious opposition has arisen, not so much because of the concept of the bill, but because of its cost. The committee amendment to the bill preserves the major aspects of our study. The integration of our retirement system with social security will be eliminated, however, this will be done at a cost of \$50 million lower than the original bill.

Our amendment is not cheap. It will still result in an additional liabilities figure of \$189 million. The amendment retains the 1.67 accrual rate for each year of service for benefits collected between ages 60 and 65. At age 65, the rate becomes 1.5%. For someone with 30 years of service this newer rate will amount to 45% of salary at age 65, compared with the current formula which will see benefits as low as 25% of salary at 65. If a person collects social security at age 65, that added to the state pension, at this new rate, will give that person with a final salary say, take an example of \$25,000, a total benefit of 98% of their preretirement disposal income. Let me tell you that again because I think this is an important factor for your knowledge. If a person collects social security at age 65, we've sepa-

rated the integration now, so he collects social security at 65, that added to the state pension at this new rate will give the person, with the final salary of \$25,000, a total benefit of 98% of their preretirement disposable income. The committee feels that this amendment still provides a greatly improved and adequate retirement benefit, as you can see. Now, the increased employer contribution rate would not go into effect until July 1, 1991. The added employer cost, for this amendment over current costs, is 7900ths% for teachers and 1.17% for state employees. I point out to my colleagues here in the Senate today, that the employer contribution in New Hampshire towards teachers and employees retirement, right now, is the lowest in the nation. This additional contribution still keeps us among the lowest. If we pass this proposal we still will be making very conservative contributions towards our employees and teachers retirement. As many of you know, the federal tax reform act of 1986 required changes in our retirement system as our current offset is greater than that allowed by the federal requirements. This committee proposal more than meets the federal requirements but does so at less than one-half the cost to the employers. This is because our proposal has those costs shared by the system and its employee and teacher members. Compliance with the minimum federal standards which cause an increase in the employer contribution of 2.13% for teachers and 2.5% for state employees. Also, because of our plan is less expensive than the federal requirement, we believe that it, therefore, satisfies the requirement of Con-Con Question 2. It is not a change mandated by state government, but, rather, it is a change forced by federal law. The bill has no effect on group II, fire and police as they never have been a part of the social security system. In summary, let me say, that all of us who study our group I system were convinced that indeed it was inadequate to meet the reasonable needs of the retirees. Public employees in New Hampshire are not making a reasonable contribution toward employees and teachers retirement. With the corrections, we should eliminate our systems integration with social security as this is the root cause of one of the problems. We believe that the committee amendment accomplishes these goals. It does so in a manner that lowers the costs so as not to jeopardize passage of this important bill. It is important that we solve this problem this session. The committee urges your support of the committee amendment, and the subsequent passage of the bill. This is an excellent compromise and I urge you to give SB 327, in the amended version before you, your unanimous support. Thank you.

SENATOR WHITE: Senator Freese, I think 98% is a marvelous figure. What do your employees from the Globe Manufacturing receive when they retire?

SENATOR FREESE: Well, we don't have the luxury of the retirement system as we have in this state. We have a deferred profit sharing contribution, mostly by the company, and the employees can contribute to it if they wish. But, it's not anywhere as good as the state's.

SENATOR CHANDLER: I rise in support of this bill, even though some of the many letters that I received in support of it came from my worst enemies. Even though I'm supporting the bill and will vote for it I think those same people will still be my worst enemies.

SENATOR MCLANE: Senator Freese, I'm confused about one point. There was a committee that studied the social security offset and reported back and, I believe that committee reported six to one. There were probably 400 or 500 letters that were read into the record at the hearing and there were 500 people who either appeared and spoke or signed up in support of that bill. What I don't understand is what additional information the committee received, other than the report of the committee on the retirement and the public hearing, that would cause the entire committee to go against the testimony of all of those people?

SENATOR FREESE: I guess you'd have ask that question to all the committee members individually. I can only report what I believe happened and that is that there got to be some concern in municipalities of the state who were responsible for the teachers and the cost of the retirement bill as it came out of the study committee and some legislators also questioned the cost. So, the amendment, that we came up with, is a very cost effective amendment it reduces the contribution of the employees, the municipalities, the cities, and the towns and takes away very little in the way of retirement for the state's employees. I think that it's a marvelous compromise and I think the committee should be commended for being able to come up with a good bill, as good as it is, and I think it should sail through both houses and I'm going to support it all the way just as it is.

SENATOR MCLANE: I still don't get an answer to this question though of where this input came from. It seems to me you have 500 people on one side and I heard none of this at the public hearing, there was one person that appeared in opposition and then all of a

sudden out of a committee comes a compromise with whom? That's what the question I'm trying to get at.

SENATOR FREESE: We want to make sure that the bill passes this session, we don't want to take the chance of losing the bill.

SENATOR MCLANE: To whom? That's my question.

SENATOR FREESE: Well, to the lawmakers. The cities and towns were concerned about their extra contributions.

SENATOR DISNARD: Senator White, are you aware the teachers and the people in section one pay close or over 12% for their retirement and social security? The teachers presently are paying 4.6% and they aren't getting a free ride and they are contributing towards the retirement, perhaps four times what the locals are contributing which they should. I just wanted to make sure that they aren't getting something for nothing, that you understand that, and that they are paying for this.

SENATOR WHITE: I think I do understand. When the system was set up many years ago, it was in a deficit position and at that point, the employer put in a greater share than the employee. With the good conservative management of the system, we now have excess earnings and we worked very hard for four years to get it so it would be a sound system. It is the soundest system in the world. I think it should remain the soundest system in the world. We have a constitutional amendment that says we will not cut in to it and expose it to the world. I just feel that there is no other industry, private industry, that when someone retires from that industry they receive 98% of their disposable income. Yes, I do understand that they've put it in. Did you know that the employer put in more when the system was first funded to get it up and running?

SENATOR DISNARD: Are you aware, while the employer may have contributed more money before, the employer is contributing less than seven/tenths of one percent today while the employee contribution has gone up to over 4.6%?

SENATOR WHITE: In regards to the state retirement system only. They are contributing their equal 7.15% on the social security. Is that correct?

AMENDMENT TO SB 327-FN

Amend the bill by replacing section 1 with the following:

1 Elimination of Social Security Offset for Group I Service Retirement. RSA 100-A:5, I (b) is repealed and reenacted to read as follows:

(b) Upon service retirement, an employee member or teacher member of group I shall receive a service retirement allowance which shall consist of a member annuity which shall be the actuarial equivalent of the member's accumulated contributions at the time of retirement, and a state annuity. Prior to the member's attainment of age 65, the state annuity, together with the member annuity, shall be equal to 1/60 of the member's average final compensation multiplied by the number of years of creditable service. After attainment of age 65, the state annuity, together with the members annuity, shall be equal to 1/66 of the member's average final compensation multiplied by the number of years of creditable service.

Amend the bill by replacing section 6 with the following:

6 Change in Group I Employee Contribution Rate and Elimination of Social Security Integration Formula for Employee Contribution. Amend RSA 100-A:16, I(a) to read as follows:

(a) The member annuity savings fund shall be a fund in which shall be accumulated the contributions deducted from the compensation of members to provide for their member annuities together with any amounts transferred thereto from a similar fund under one or more of the predecessor systems. Such contribution shall be, for each member, dependent upon [its] the member's employment classification at the rate determined in accordance with the following table[.]: [With respect to the rates listed in the following table for employees and teachers, the percentages are applicable to that portion of earnable compensation in excess of the maximum amount of taxable wages under the Federal Insurance Contributions Act, as from time to time in effect, with 1/2 of such rate being applicable to that portion of earnable compensation which is not in excess of such amount.]

Employees.	[9.20]	5.00
Teachers	[9.20]	5.00
Permanent Policemen		9.30
Permanent Firemen		9.30

The board of trustees shall certify to the proper authority or officer responsible for making up the payroll of each employer, and such authority or officer shall cause to be deducted from the compensation of each member, on each and every payroll of such employer for each and every payroll period, the percentage of earnable compensation applicable to such member. In determining the amount earnable

by a member in a payroll period, the board may consider the rate of compensation payable to such member on the first day of a payroll period as continuing throughout the payroll period and it may omit deduction from compensation for any period less than a full payroll period if such person was not a member on the first day of the payroll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as shall not exceed 1/10 of one percent of the annual earnable compensation upon the basis of which such deduction is made. The amounts deducted shall be reported to the board of trustees. Each of such amounts, when deducted, shall be paid to the retirement system at such times as may be designated by the board of trustees and credited to the individual account, in the member annuity savings fund, of the member from whose compensation the deduction was made.

Amendment adopted. Referred to Finance (Rule #24)

SB 330-FN, providing medical and health insurance coverage for retired non-state group II New Hampshire retirement system members. Interim Study. Senator Bond for the Committee.

Senator Bond moved to vacate to Finance

Adopted.

SB 336-FN, relative to retirement benefits for full-time legislative employees. Inexpedient to Legislate. Senator Charbonneau for the Committee.

SENATOR CHARBONNEAU: The sponsor was unable to attend because of sickness. No one appeared in favor or opposition. It was learned that Representative McCain has HB 1107-FN, establishing a committee to implement the recommendations of legislative employees and constitutional offices retirement benefits and making an appropriation therefor. It was decided, after looking at the revised fiscal note, that this bill really needed the work of an actuary, which is one who calculates insurance and annuity premium reserves and dividends, as well as that of someone who has access to personnel records. Therefore the bill was voted inexpedient to legislate.

Adopted.

SB 346-FN, creating a presumption that cardiovascular disease in police officers is occupationally related. Split Report: Interim Study; Ought to Pass with Amendment. Senator Pressly for the Committee.

Senator Pressly moved to lay SB 346-FN on the table.

Adopted.

SB 286, relative to exchanging police information, on a reciprocal basis, with other states. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: The amendment you will find on page 14 of today's calendar. Basically, it's a very simple bill and what it is is enabling legislation for those border towns that have problems and to find out from the department of safety some information that goes on in other communities. The bill regrettably, was drafted incorrectly from legislative services, in that in the beginning of the bill they had after paragraph 6 and it should be after paragraph 8, they're eliminating two sections of the RSA's so, that's the first amendment.

The second amendment deals with, the commissioner shall make such information obtain from other states available to the law enforcement community period. And that's the difference in what was presented to us. There is a federal NCIC which is national communication of information and it is not, under the federal laws, suppose to go to the bar or the judiciary. That's why it's only going to go to the law enforcement community.

AMENDMENT TO SB 286

Amend section 1 of the bill by replacing it with the following:

1 New Paragraph; Duties of Commissioner. Amend RSA 21-P:4 by inserting after paragraph VIII the following new paragraph:

IX. Have the authority to cooperate with other states in the exchange of information, on a reciprocal basis, relative to law enforcement matters; including but not limited to, motor vehicle violations involving alcohol or drug-related offenses, criminal matters, missing persons, stolen motor vehicles, and other police-related information. The commissioner shall make such information obtained from other states available to the law enforcement community.

Amendment adopted. Ordered to Third Reading.

SB 287, relative to police assistance from other states. Ought to Pass. Senator Bond for the Committee.

SENATOR BOND: At the present time, many municipalities that border on Maine, Massachusetts and Vermont have working agreements with communities on the other side of the borders so that police officers certified in New Hampshire may enter the other municipality and, upon request of the police authority in that town, extend assistance. There is a question as to the legality of that and the defensibility of arrest and so forth because there is no actual statute that justifies that action on the part of a New Hampshire police officer. Therefore, this contingent upon the acceptance of similar legislation in at least one of the bordering states in New Hampshire, would make it unquestionably legal for a municipal police officer to take actions in an adjacent town upon request.

Adopted. Ordered to Third Reading.

SB 345-FN, relative to disciplinary proceedings conducted by the committee on judicial conduct. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: Basically, the amendment is now the entire bill, you will find that amendment on page 40 of the calendar. Today, if there is a judicial conduct hearing in regards to a sitting judge, everything is done in secret. The complaint is done in secret, the hearing is done in secret, and the decision is guarded very secretly. You're not even told if you've won your case or not. We figure that it's daylight in America and there's a right to know law; not only that covers the legislators but also that covers the judicial branch of government. Therefore, this bill states that once disciplinary proceedings has gone its full gamut, we don't want to have frivolous lawsuits brought in to this area, but once its gone the full gamut, the judge has been found to be guilty of the complaint, then the committee on judicial conduct will make it apparent of what has happened and the final disposition of the complaint shall be done within 90 days of receipt, so that, at least it will be an opening as to if the judge has been found guilty of the complaint that was brought against him. We feel that it's day time in America and it's time that the judges were at least subject, in a small way, to the right-to-know law. If a judge was found not guilty then none of this comes out and it's only to come out after all final appeals have been taken so that we feel that it is tight enough. If a judge has been found guilty of a misconduct, then it is proper for the public to know.

SENATOR ST. JEAN: You just have to clarify the amendment to me, Senator White. It reads, on roman I, the committee on judicial conduct shall make available to the public a copy of the complaint.

Am I to assume that that means that they're not going to make available copies of all the complaints that come as a result of a certain judge, only if a disciplinary action is taken against that particular judge?

SENATOR WHITE: That's correct. Unfortunately, there are a lot of frivolous cases that could be brought against a judge and we do not feel that it was fair to expose that type of a hearing.

SENATOR ST. JEAN: My reading of it is, is that any complaint under roman I, would be made public.

SENATOR WHITE: No, I don't know if the semicolons are proper, I would assume Don Pfundstein has reviewed this. It's my understanding that the committee on judicial conduct shall make available to the public a copy of the complaint, the committee's findings thereon and a report of disciplinary action taken with regard to a complaint; provided that the committee finds that the complaint was justified and that the person who was the subject of the complaint committed a violation of the code of judicial conduct. The provisions of this paragraph shall apply only after the review process of the complaint is completed. So, in other words, it goes through the whole process, if he has been found in violation, at that time it becomes public but not until the whole review process, the appeal and everything else goes through.

SENATOR NELSON: Is it not possible to have taken care of this matter under the supreme court's own rules committee?

SENATOR WHITE: Well, supposedly they could have, but the proposal that they brought back to the Senate did not exactly cover this, it was kind of a half hearted attempt to bring it into compliance with what the sponsor wanted.

SENATOR BOND: Constitution of the State of New Hampshire establishes three equal branches of government; the executive, the legislative and the judiciary. There is no reason for the judiciary not to be as responsive to the public as are the executive and the legislative. All the protections are here to protect a judge from being brought to public ridicule without basis. However, when there is basis for it, the information concerning the judge and his misconduct should be made public.

AMENDMENT TO SB 345-FN

Amend RSA 490:30 as inserted by section 1 of the bill by replacing it with the following:

490:30 Committee on Judicial Conduct.

I. The committee on judicial conduct shall make available to the public a copy of the complaint, the committee findings thereon, and a report of disciplinary actions taken with regard to a complaint; provided that the committee finds that the complaint was justified and that the person who is the subject of the complaint committed a violation of the Code of Judicial Conduct. The provisions of this paragraph shall apply only after the review process of the complaint is completed.

II. The committee on judicial conduct shall conduct a hearing within 90 days of its receipt of a complaint, unless the committee determines that a hearing is not necessary. Where the committee decides a hearing is not necessary, the committee shall make final disposition of the complaint within 90 days of receipt of the complaint.

Amendment adopted. Ordered to Third Reading.

Senators Hough, McLane and Nelson wished to be recorded as opposed.

SB 244-FN, making intentional transmission of AIDS a felony. Ought to Pass with Amendment. Senator Chandler for the Committee.

SENATOR CHANDLER: This is a relatively simple bill. What it does is makes a felony for a person that has AIDS to purposely inflict AIDS on someone else or to give a blood transfusion knowing that he has AIDS and doing it on purpose so that whoever gets the blood will die, will contract AIDS and die.

The amendment is simply to allow a person who has AIDS to donate blood for testing purposes, not to give it to anyone else but, to give it to a laboratory that might want to test the blood and find out about it. That's all the bill does.

SENATOR JOHNSON: Senator Chandler, does this bill speak to those people who have been tested positive for the AIDS virus?

SENATOR CHANDLER: Yes, people that knowingly have AIDS and knowingly, purposely give it to someone else.

SENATOR JOHNSON: Senator Chandler, I'm trying to draw distinction between somebody who has been diagnosed as having AIDS, in the so-called full-blown sense of the disease, as opposed to those people who have simply been tested positive for the AIDS virus and, my question really is, does the person testing positive for the AIDS virus come under this bill also?

SENATOR CHANDLER: Well, if they had been tested positive and then purposely donated their blood for transfusions or have sex with someone to try to inflict AIDS on them, then they would come under this.

SENATOR ST. JEAN: The penalty for a class A felony, what would that be Senator Chandler?

SENATOR CHANDLER: A class A felony would probably be a jail sentence of 15 years.

SENATOR ST. JEAN: Jack, would you believe they're not going to be around but maybe 6 more months.

SENATOR CHANDLER: That could be true.

SENATOR CHARBONNEAU: Senator Chandler, how are you going to prove this?

SENATOR CHANDLER: The person that donated his blood purposely to affect someone probably somebody would know that he had AIDS, maybe he had been to a doctor, maybe he hadn't been to a doctor but he did it himself. The question of whether or not you can prove it is there's a lot of criminal things that happen in the state, such as murder, rape and everything else and you can't always prove who did it. The question of whether it can be proved or couldn't be proved would be up to the court to decide. A fellow could be arrested for intentionally giving someone AIDS and then he'll go to court and have a trial and the judge and the jury would decide whether or not he did it on purpose.

SENATOR MCLANE: Senator Chandler, do you think that perhaps what this bill might do is prevent people from getting an AIDS test because then they would be liable for a felony if anyone got the AIDS virus from them in any way. Do you think perhaps this would discourage more AIDS testing?

SENATOR CHANDLER: No, I don't think so because if a person purposely tried to inflict somebody, did it on purpose, it's like them committing murder and I don't think that if they wanted to do that I

don't think that they would be prevented from doing it, they wouldn't have a test so they wouldn't be known.

SENATOR MCLANE: Senator Chandler, if they had not had an AIDS test, how could anyone prove that they knowingly knew they had AIDS?

SENATOR CHANDLER: They might not know themselves if they had AIDS and, if they didn't know it themselves, then they would not come under this. This is only when they did it on purpose.

SENATOR WHITE: I think what Senator Chandler just said gets to the crux of the matter. You have to knowingly know that you have AIDS. In South Carolina there was an incidence where someone knew that he had AIDS and they incarcerated him but, there's no law in South Carolina so they couldn't keep him in jail. He, thereupon, went out and raped some women, they tried to bring him back in for knowingly possibly transmitting AIDS. But, before they could get him he fled to Florida where there's no other law. So, I think it has come up in several places in this country and I think all Senator Chandler is trying to get at is if they knowingly transmit blood, in other words they already know that they are infected with the AIDS virus, and they knowingly donate blood which could cause the death of someone else or they have sex with someone else that could lead to AIDS, similar to Rock Hudson who knew he had AIDS and continued on with his lifestyle. Knowingly, transmission of AIDS would become a felony.

SENATOR HOUNSELL: This bill is really quite simple. If you have AIDS, you're going to die from it, that's the state of affairs. If you knowingly transmit that to someone else, you have given them a death sentence. It's just as though you held a gun to them. Now I don't think there's a whole lot of people with AIDS who is out pulling this offense but, I think we should recognize this for what it is and I think it's a good bill and ought to pass.

AMENDMENT TO SB 244-FN

Amend RSA 631:1, III as inserted by section 1 of the bill by replacing it with the following:

III. After he has been medically determined to have contracted acquired immune deficiency syndrome or the human immunodeficiency virus which is the causative agent of acquired immune deficiency syndrome, purposely or knowingly transmits acquired

immune deficiency syndrome or the human immunodeficiency virus to another or donates blood to another person as in a transfusion. This paragraph shall not apply to blood donated for experimentation.

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect July 1, 1988.

Amendment adopted. Ordered to Third Reading.

SB 281-FN, prohibiting surrogate parenting. Interim Study. Senator Podles for the Committee.

SENATOR PODLES: SB 281 prohibits surrogate parenting for a fee and makes the penalty a misdemeanor. To pass this bill may be the most practical approach but, this kind of law would be too easy to get around and would pose constitutional problems. The bill had a good hearing, it was well studied and well researched. The committee recommends interim study.

SENATOR HOUNSELL: I do appreciate the work that the committee has done on this. I know that they did deliberate and they have considered it and I do know that there's more and more conversation surrounding this issue. The thing that concerns me however is that, it's recognized as something that legislatures around the country have to deal with them. In fact, the judge in the Baby M case said the legislatures of the states of this country need to address the surrogate parenting contract arrangements. It's something that the legislatures have to do and, in absence of that, judges will come up with various decisions based upon cases that come before them in the absence of law. There is federal legislation that was proposed by Rep. Lukin of Ohio which would not prevent a woman from informally entering such an arrangement. But, as a sponsor in that legislation has said, and this legislation addresses, that you remove the profit incentive and you'll end the practice. There's been a lot of work done on this and I'm certain with everything else that's been going on, not everyone has been able to become knowledgeable of it, but I feel confident in standing before you and stating that surrogate parenting contracts, with arrangements where money passes, is exploitive not only of poor women but, of the children that are the offshoot of these arrangements.

Now, just let me throw some cases out that have happened. Of course you're familiar with the Baby M case. You may not be familiar with a previous case where a parent contract was entered into and

twins were born. That case is in court and with the absence of legislation they're going to court. There are two babies. The person who paid the \$10,000 had contracted for one, but lays claim to both. Now just as recent as last week, the judge said that that contract is null and void. It points to some confusion because of the absence of legislation. Another case that happened, and I believe it was in Illinois but it may have been Iowa, the baby was born with physical and mental handicaps. The father said, that's not what I ordered, I don't want it and the mother said, well, I certainly don't want it. This child became the ward of the state. There are other things that enter into it, as you all know contracts can become pretty industrious, they can become involved. Could we have a contract where perhaps there would be a clause that if a baby is born with blue eyes and blond hair, that there'd be a \$2,000 bonus? If it was a male instead of a female could there be a bonus there? Can we write into these contracts? What about IQ? What if the child is tested at the age 6 to have an IQ above average, could there be a contract arrangement that there'd be a bonus then? What are we talking about as we talk about contracts? And I don't mean to take it to the absurd but, I think it's something that you have to consider. What are we talking about? Yes, this needs to be studied, but why not study it with a prohibition in place? Why not prohibit surrogate parent contracts for a fee in the State of New Hampshire and study it under those circumstances? I'm going to vote no on interim study and then I'm going to ask, if that's successful, for a motion of ought to pass.

SENATOR MCLANE: Senator Hounsell has just spoken very eloquently for my bill which is in the House right now. There are four other surrogate parenting bills in the legislative process at this time and we just had a two and a half hour hearing in the House Judiciary on these bills. My bill, with Rep. Mike Jones, calls for the state to dictate what could go into a contract, which was a surrogate parenting contract and, if that were not followed, the contract would be null and void. What I'm saying is that those bills, I assume, will go to study. There have been about 20 surrogate parenting contracts in New Hampshire, it is my contention that eventually we're going to need legislation. So, I suggest that the Senate send the bill that is before them to study with the others. It is a very complicated subject, but legislation is needed.

SENATOR STEPHEN: I agree with Senator Hounsell. Legislation is concerned about children and we should be concerned about the rights of the children. There are all sorts of problems and this concern ends up in the courts and what would be the effect on the chil-

dren? We should think of that. Everyone is concerned about the matter, but who concerns themselves about the child? And that is very important, so I would hope that you would take a second thought on that.

Roll Call requested by Senator Hounsell.

Seconded by Senator Stephen.

The following Senators voted yes: Heath, Freese, Hough, Disnard, Blaisdell, White, Pressly, Nelson, Charbonneau, McLane, Podles, Johnson, St. Jean and Krasker.

The following voted no: Bond, Hounsell, Dupont, Chandler, Roberge, Stephen, Torr, Delahunty and Preston.

14 Yeas

9 Nays

Committee Report Adopted.

SB 248-FN, relative to the length of certain prisoner's sentences. Inexpedient to Legislate. Senator Podles for the Committee.

SENATOR PODLES: SB 248 provides for the unconditional release of certain persons whose offense is currently a class A felony and the maximum term is 15 years. Even if their sentence exceeds 15 years and such person was sentenced prior to November 1, 1973, which is 15 years ago, there are seven people who are on parole and meet the requirements of this bill. Mr. Pishon, from the department of corrections, was vehemently opposed to the bill. The seven people who are under parole supervision have not been administratively discharged because of misbehavior while on parole. Most of them were returned to prison repeatedly. The corrections department believes that they should complete their period of parole based on good conduct, rather than released by a legislative mandate. The committee recommends inexpedient to legislate.

Senator Chandler moved to substitute Ought to Pass.

SENATOR CHANDLER: This bill was brought about by the fact that a man from Manchester, when he was 17 years old was convicted of rape and sent to the state prison. About 2 months after he was there, a legislature in its wisdom, changed the length of sentences. His maximum, when he was 17 years old, was 30 years, two months afterwards the legislature changed that to 15 years. So, he was in prison for a crime and all the prisoners are there for a crime

and the question is not what crime he committed, the question is on the length of his sentence. Now, while he was there, there were many people who committed the same crime and was sent there for the maximum of 15 years. So, they came in after he did and they went out a long time before he did. His 30 years is not up yet. He is now about 34 years old and he's a manager of a nursing home in Epsom. He's gone to college, graduated, and he has also gone to law school. He's probably eligible to take the bar. He comes from a respectable family and he's not what you might say a criminal type even though he did get sentenced when he was 17 years old. He came and testified at the hearing and he feels that people that fall into that category that he is in, that they should not have to serve the maximum. The legislature also changed the minimum but the minimum doesn't effect him, it's the maximum and the legislature changed the maximum, but they never let it apply to people who are already in there. Now, these seven people that Senator Podles talked about, includes about five of them who were murderers. Murderers, capital punishment first degree felony on a murderer, they don't actually come under this. I think Senator Podles was mistaken when she thought those seven people also come under this. I think that there might be two of them that come under it but the others being murderers, they would not come under it and they would remain on parole. So this would allow him to get off of parole and proceed with his life as a respectful citizen, which I think he's learned his lesson and I think he would be a good citizen and continue in his profession and probably become a lawyer. So, I think he really deserves consideration and he deserves to get off parole.

SENATOR WHITE: We did look at this bill and we did hear the testimony in committee and I don't like to see legislation for one individual. We have a process in the State of New Hampshire, as other states do in that, you can appeal to the Governor and council for a pardon. I then went to one of the councilors to see how frequently they could come in to Governor and council for a pardon and there's no limit as to how many times you can go for a pardon. He has gone once already to Governor and council and was turned down. The warden said that this person has been out on parole three times and has violated his parole and feels that he still needs supervision. The new law, or the law that is referred to in this bill, went into effect in 1973. So, if he served a maximum of the minimum time he still would not be eligible for parole until late in this year. I rise in opposition to the pending motion and support the original committee report of inexpedient to legislate. There are avenues to take and

he can go back to the Governor and council and I think that's what should be done, not a bill passed in the legislature.

SENATOR PODLES: Senator Chandler, have you heard the testimony from Mr. Pishon who said and I quote him, these seven people have demonstrated a need for this continued supervision and that includes the person that you're trying to release?

SENATOR CHANDLER: I heard him say that but five of the seven people are convicted with the crime of murder so they're already getting the supervision on the outside. I heard him say that and also his opinion he wanted to continue here so that's why we put in a bill to get him off the hook.

SENATOR NELSON: Senator Chandler, I know that you've been working very hard on this bill and have done a lot of work but, I recall that there was a problem with the bill itself in that the word said prisoner, not parolee. Did you hear anything else about that?

SENATOR CHANDLER: That's right. It would be necessary to amend the bill to make it parolee instead of prisoner because there are no prisoners now that would come under it. So, it would have to be parolee instead of prisoner, that's right.

SENATOR NELSON: How are we going to fix this problem with the bill? Are you going to recommit it or what, study it or what?

SENATOR CHANDLER: I would be willing to have it recommitted to the committee and make that necessary correction, which I was aware of.

SENATOR CHANDLER: Senator Podles, when the judiciary committee took a vote on this bill, how many were present?

SENATOR PODLES: There were three of us.

SENATOR CHANDLER: Was that a quorum?

SENATOR PODLES: It is not a quorum, but because there is a deadline for all bills we had to take action on them.

SENATOR CHANDLER: We don't have to live up to the rules of the Senate?

SENATOR PODLES: We had three people there.

SENATOR CHANDLER: How many are there on the committee?

SENATOR PODLES: There are six people but some of the people don't show up.

SENATOR CHANDLER: How many would require a quorum?

SENATOR PODLES: Four people would require a quorum, four out of six.

SENATOR CHANDLER: So, therefore, you say there was no quorum.

SENATOR ST. JEAN: Senator Chandler, would you believe that if we amended this piece of legislation to include your constituent that we all may be better off?

SENATOR CHANDLER: He's not my constituent.

SENATOR ST. JEAN: Oh, he's not.

SENATOR CHANDLER: No, he comes from either Nashua or Manchester and he lives in Epsom now. No, he's not my constituent.

SENATOR JOHNSON: Senator White, I think you've answered my question, but you're really saying that there is another avenue of relief for the people being addressed in this bill and that the other avenue of relief, namely the executive council and so forth, is really the most appropriate avenue of relief?

SENATOR WHITE: You have hit it right on the head, Senator.

SENATOR HOUNSELL: Senator Chandler, I think that what you're trying to do is admirable and you should be commended for it, but I was looking at the constitution of New Hampshire, article 52 part 3, the power of pardoning offenses shall be in the Governor by and with the advice and consent of the council. I have a serious question as whether or not we have the constitutional prerogative?

SENATOR ROBERGE: I'm a member of the Judiciary committee, I was present for the hearing on this particular bill, I heard Mr. Pishon say that this particular person had violated parole at least three times. If I had been at that executive committee I would have been the fourth vote against the bill.

Motion lost.

Committee Report Adopted.

CACR 24, the right to counsel providing that: the right to counsel shall not attach unless a determination has been made that imposition of a term of incarceration is probable. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: I have distributed a flow sheet prepared by Charlie Connors in the legislative budget office. Basically, what this CACR does is bring the New Hampshire constitution into compliance with the federal constitution. As you can see, in 1979 one of the things, obviously, that I'm trying to control is cost. In 1979 the cost of the program was \$619,999. We are now in 1989 and Charlie figures that we will have to have a supplemental appropriation because he doesn't feel that there is enough money there, is \$3,990,927. As is often the case, the New Hampshire state law is much more liberal than the federal constitution requirements in regards to assigned counsel. The bill was designed to amend the New Hampshire constitution, to tighten up the runaway cost of providing legal counsel on this very liberal standard. When legislative services drafted it, it was a horrible piece of legislation and I, being the sponsor, went to the committee and asked them that they withdraw the bill and make it inexpedient. I then got a call from the attorney general's office saying that they had missed the hearing, but they were very much in favor of the bill.

The amendment that you have before you was drafted by a former assistant attorney general, or deputy attorney general, Bruce Mohl. Jeff Howard came to the committee to explain it to us as to what it actually did. In addition, the amendment has been examined by the Senate counsel, the House counsel and the Governor's counsel and they are all in agreement that this would stand up under constitutional investigation. The effect of the bill is to tighten up the standards to meet the federal requirements and nothing else. We have a problem on our hands which is just going to get bigger and this does address it. It gives the defendant the same recourse in state courts that they have in federal courts. I urge support.

SENATOR DUPONT: Just to back up what Senator White has indicated in her remarks. I don't think it's a question at all of denying anyone the ability to have counsel and having served on Senate Finance in the group that dealt with the particular area that deals with the indigent defense budget, we looked at all sorts of alternatives, whether they be in the area of collection or whether they be in a

tightening up of the procedure for the allowance of free counsel to be provided by the court. Really, have determined that those alternatives aren't going to solve the problem. What you're looking at is really an amount of money that is going to be incapable of being graft as the time goes on because the rise in the cost of this particular program is just growing. I have no concern about the abilities of the state to pay for someone who's truly in need and doesn't have the resources to provide their own counsel. But, most people are using this only as a way of taking the cost of legal counsel out of their pocket and taking it out of the state. So, that's why I believe that this amendment is really needed.

SENATOR HOUNSELL: Senator White, you said that attorney general, I believe, and the counsel for the Senate and the House counsel ruled that this was constitutional. My question is, since it's going into the constitution, how could it be ruled anything else but constitutional?

SENATOR WHITE: Well, I think that there is some people in the legal profession that feel that perhaps it isn't constitutional so, we did have it researched to be sure that even though something goes into the constitution, I guess, they can rule that it goes against their 5th amendment or another part of the constitution they might be violating. But, they all have agreed that this, indeed, would not violate any other section of the New Hampshire constitution.

SENATOR NELSON: Senator Dupont, is what you're suggesting a quality assurance program here and problems in the way in which we do business in the state?

SENATOR DUPONT: Senator, I think the issue is that there is some question as to whether or not a judge who requests of an individual that's in front of him that the information is in fact correct. It may jeopardizing his ability to sit in on that case and basically the judge is making the determination that everyone that requests free counsel gets free counsel. I think the question is that we're not really putting those individuals to the test as to whether or not they have the resources to pay for legal counsel. We just don't see any way that the court is going to be able to perform that function.

SENATOR NELSON: Senator White, did you say that this was going in line with the federal constitution?

SENATOR WHITE: Yes.

SENATOR NELSON: Would you believe that that's federal constitutional law, not the constitution? Thank you.

SENATOR KRAKSER: Senator White, can you give me one or two examples of instances where defendants wouldn't be entitled to legal counsel, if this passes.

SENATOR WHITE: I think, basically, from my understanding from the attorney general's office and others is that there is an awful lot of plea bargaining going on in the State, as you are aware. Sometimes, the prosecutor will indicate that he is not going to prosecute to the full limit of the law, in other words, he's not going to push it to incarceration. But, instead, lower the sentence. If that were the case, then they would not be entitled to counsel. A lot of this is occurring during a second DWI and others, wherein the defendant has enough money to have a car and to get around so that he can create his own problems and I think it was our feeling that if they can create their own problems perhaps they should be able to defend their own problems. If they are going to be incarcerated, then they would have the right to counsel. They would not be entitled to a defendant if it was merely a fine.

SENATOR HOUNSELL: Senator White, doesn't second offense DWI carry actual deprivation of liberty?

SENATOR WHITE: Yes it does, but sometimes they give a lesser offense. As you know with plea bargaining, they sometimes go to a lower level.

SENATOR HOUNSELL: Isn't that a mandated second offense?

SENATOR WHITE: If they're convicted.

SENATOR NELSON: I just wanted to rise and make a remark that I feel the bill in its present form will not stand up to anything because of the use of the word actually in there. No one knows what actually means and secondly, if in fact we have a problem in the indigent person's defense fund, then we ought to take a look at how to solve the problem within the budgetary constraints, not use a constitutional amendment.

SENATOR HOUNSELL: I rise in opposition to this for a number of reasons, but everybody seems to be in a hurry to get home and it seems to be more important to get home than to consider perhaps conversation around the constitution. But, basically it's this. Yes, it's

expensive, the indigent defense fund is expensive but I don't think we need to start balancing the budget and cutting corners fiscally at the expense of justice. Justice can sometimes be an expensive undertaking, but it's our responsibility to insure that. I think that the corrections that need to be taken can be taken in the budget process or through legislation and I don't think we need to be turning to a document that's as special as the constitution of New Hampshire to be solving legislative problems.

SENATOR JOHNSON: Senator White, I'm looking at the analysis here and I presume that's reflective of what this amendment is talking about, but isn't there a suggestion here that the judge is going to have to make some preliminary decision or at least some preliminary indication of what the outcome is going to be before the actual trial is conducted?

SENATOR WHITE: Basically, he possibly is going to have to bring in the prosecutor to determine if he is, in fact, going to go the whole limit of what he could be given as a sentence.

SENATOR JOHNSON: Isn't it also possible, Senator White, that under this notion here that somebody that could be found not guilty if the person had a counsel, but who could be, in effect, convinced to not going that route in acceptance of a verdict that does not include incarceration? You have a situation where a defendant, if that defendant got counsel, might very well be found not guilty. But then the same defendant could be persuaded in somehow or another if there's no jail sentence involved the person might just plea bargain it and, indeed, be found guilty and then have no incarceration. Isn't that a possibility?

SENATOR WHITE: Well, anything is a possibility. I don't see that as happening. Basically, in the current constitution, it reads, every person held to answer in any crime or offense punishable by deprivation of a liberty shall have the right to counsel. That has been changed, the punishable by, as you will see on page 42, punishable by has been removed and which results in an actual deprivation. It looks at the more serious crimes, it doesn't look at all those lesser crimes that are nickel and diming the state. The judges today, under every instance, give counsel. Perhaps with the earlier bill that we did on judicial conduct, perhaps they will change their mind and try and find out if they are in fact doing it too frequently and maybe we can tighten it up. But, they are not, in my estimation, doing their job and that's why the bill is here.

AMENDMENT TO CACR 24

Amend the title of the resolution by replacing it with the following:

RELATING TO: the right to counsel in criminal proceedings.

PROVIDING THAT: the right of a defendant in a criminal proceeding to have an attorney appointed at the expense of the state if the defendant cannot afford an attorney be limited to cases where the defendant actually faces incarceration.

Amend paragraph I of the resolution by replacing it with the following:

I. That article 15 of the first part of the constitution be amended to read as follows:

[Art.] 15. [Right of Accused.] No subject shall be held to answer for any crime, or offense, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse or furnish evidence against himself. Every subject shall have a right to produce all proofs that may be favorable to himself; to meet the witnesses against him face to face, and to be fully heard in his defense, by himself, and counsel. No subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land; provided that, in any proceeding to commit a person acquitted of a criminal charge by reason of insanity, due process shall require that clear and convincing evidence that the person is potentially dangerous to himself or to others and that the person suffers from a mental disorder must be established. Every person held to answer in any crime or offense [punishable by] which results in an actual deprivation of liberty shall have the right to counsel at the expense of the state if need is shown; this right he is at liberty to waive, but only after the matter has been thoroughly explained by the court.

Amend paragraph IV of the resolution by replacing it with the following:

IV. That the wording of the question put to the qualified voters shall be:

"Shall the state constitution be amended to provide that the right of a defendant in a criminal proceeding to have an attorney appointed at the expense of the state if the defendant cannot afford an attorney be limited to such cases where the defendant actually faces incarceration?"

Amendment adopted.

Roll Call requested by Senator Hounsell.

Seconded by Senator Nelson.

The following Senators voted yes: Bond, Heath, Freese, Dupont, Chandler, Disnard, Roberge, White, Charbonneau, Podles, Johnson, Bartlett, Torr, Delahunty and Preston.

The following voted no: Hounsell, Hough, Blaisdell, Pressly, Nelson, McLane, Stephen, St. Jean and Krasker.

15 Yeas

9 Nays

Ordered to Third Reading (required 3/5th vote).

SB 324-FN, relative to dangerous dogs and amending the penalty provision relating to dogs which are a menace, a nuisance, or vicious. Ought to Pass with Amendment. Senator Podles for the Committee.

Senator Podles moved to lay SB 324-FN on the table.

Adopted.

SB 341-FN-A, establishing a position to coordinate child day care services in the office of the commissioner of health and human services and making an appropriation therefor. Ought to Pass with Amendment. Senator Krasker for the Committee.

SENATOR KRASKER: This bill, as you can read from the analysis, establishes a new position to coordinate child day care services in the office of the commissioner of health and human services. During the 70's, the responsibility for child care was held by the division of welfare and when the division of children and youth was established, the functions of day care were dispersed among various agencies. There was a study that was undertaken over a six month period that involved people from the departments, from the agencies, providers, the one thing that they came up with that was really going to maximize our resources was one person to coordinate the functions of child care. The committee heard this, there was no one in testimony against it. The amendment reduces the appropriation by \$5,468 to remove current expenses and we urge its adoption.

Amendment to SB 341-FN-A

Amend the bill by replacing section 3 with the following:

3 Supplemental Appropriation. In addition to any other sums appropriated to PAU 05,02,01, office of the commissioner of health and human services, the sum of \$35,000 is hereby appropriated for the fiscal year ending June 30, 1989, for the purposes of this act. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

Amendment adopted. Referred to Finance (Rule #24)

SB 328-FN, relative to sexual misconduct by psychotherapists. Ought to Pass with Amendment. Senator Krasker for the Committee.

SENATOR KRASKER: This was a bill that was voted out ought to pass with amendment. It was a bill that was worked on over the summer during two work sessions. There was a problem that surfaced in the last session that psychotherapists were sexually abusing their clients. This bill has provided a remedy for this and one that everybody has agreed to. It provides that psychotherapists who engage in sexual misconduct with clients be subject to disciplinary action. It also imposes a duty upon psychologists and other persons that are certified to inform a former client that such sexual misconduct by a previous psychotherapist is cause for disciplinary action by the board. In previous legislation that had been proposed, it would have required a person who had been molested to do this and that was something that was objected to and that's been taken care of.

The bill also requires the board of examiners of psychologists to inform all applicants for certification that sexual misconduct is subject to disciplinary action and requires the board to distribute information regarding sexual misconduct to persons certified under it. There are a few other amendments of the bill, two words are eliminated; physician and nurse because they are covered by their own chapters. It also changes the definition of sexual relations to broaden the definition and I urge it's adoption.

Amendment to SB 328-FN

Amend RSA 330-A:23, III as inserted by section 5 of the bill by replacing it with the following:

III. "Psychotherapist" means a psychologist, chemical dependency counselor, social worker, pastoral counselor, or other person, whether or not licensed by the state, who performs or purports to perform psychotherapy.

Amend RSA 330-A:23, V as inserted by section 5 of the bill by replacing it with the following:

V. "Sexual relations" means the intentional touching of any part of the client's body which can be reasonably construed as being for the purpose of sexual arousal or gratification of either party, or any verbal or non-verbal communication for the same purpose.

Amend RSA 330-A:25 as inserted by section 5 of the bill by replacing it with the following:

330-A:25 Sexual Misconduct; Duty to Inform.

I. If, during the course of mental health therapy a client alleges that his previous psychotherapist has engaged in sexual misconduct, as defined in RSA 330-A:24, the psychologist or person certified under this chapter shall have a duty to inform the client in the manner provided for in paragraph II.

II. The duty may be discharged by, and no monetary liability or cause of action may arise against, a psychologist or person certified under this chapter, if the psychologist or person certified under this chapter informs the client of the unethical, unprofessional, and dishonorable conduct of the previous psychotherapist's actions. The psychologist or person certified under this chapter shall also advise the client that such sexual misconduct is cause for disciplinary action by the board of examiners of psychologists.

III. No civil or criminal liability shall arise concerning client privacy or confidentiality against a psychotherapist or person certified under this chapter for information disclosed to the board of examiners for psychologists or any other statutorily created medical occupational licensing board conducting disciplinary proceedings in discharging the responsibilities established under this subdivision, provided that such information is disclosed in good faith.

IV. No civil action shall be maintained against the board or any member thereof, or its agents, employees or against any organization or its members, including, but not limited to, any member of a professional standards review organization listed in RSA 507:8-c, I, or against any other person for or by reason of any statement, report, communication or testimony to the board, or determination by the board in relation to disciplinary proceedings under this section; provided that such statement, report, communication, or determination is made in good faith

V. If the client decides to report such sexual misconduct to the board, the psychologist or person certified under this chapter shall provide, either directly or indirectly through referral, support and advocacy to such client in reporting the incident to the board.

VI. For purposes of this section, "psychologist or person certified under this chapter" shall include persons providing treatment under the supervision of a psychologist or person certified under this chapter.

Amendment adopted. Referred to Finance (Rule #24)

SB 347-FN-A, increasing rates for shared homes and making an appropriation therefor. Ought to Pass with Amendment. Senator Bond for the Committee.

SENATOR BOND: SB 347 is a bill, which in its original form would have raised shared home rates to \$850 a month. The policy committee agreed that there should be an adjustment in rates based on the presentation made by the shared home people however; it was the decision of the committee that any change should be the subject of discussion of Finance and therefore the amendment, which you will find on page 40, simply establishes an increase of one dollar and urges the Senate President to send the amendment to Senate Finance.

Amendment to SB 347-FN-A

Amend the bill by replacing all after the enacting clause with the following:

1 Supplemental Appropriation. The sum of \$1 for the biennium ending June 30, 1989, is hereby appropriated to the division of human services, department of health and human services, for the purpose of increasing the standard of need under RSA 167:7, I-a, for residents of shared homes. This appropriation is in addition to any other funds appropriated to the division of human services and shall be nonlapsing. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

2 Effective Date. This act shall take effect upon its passage.

Amendment adopted. Referred to Finance (Rule #24)

SB 262-FN-A, establishing a New Hampshire youth corps and making an appropriation therefor. Ought to Pass with Amendment. Senator Krasker for the Committee.

SENATOR KRASKER: SB 262 authorizes the organization of an outdoor youth corps supervised by the director of parks in cooperation with the division for children and youth. It focuses on at risk disadvantaged children. Two pilot programs were initiated; one at

Monadnock and one at Franconia and our committee heard glowing reports both from parents and one young man who had participated. The programs were organized and managed by the student conservation organization, which is a nationwide organization that has placed approximately 14,000 young people in conservation work and this organization will work with DCYS to help identify young people for the program. We did remove from the bill the section on state acquisition of land, which was requested. A second amendment was the reduction of the appropriation to one dollar. We feel it's certainly a worthy project, it's an innovated idea which we're certain will help young people who need it but we're leaving it up to Finance to determine how much money should go into the legislation.

AMENDMENT TO SB 262-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a New Hampshire conservation corps
and making an appropriation therefor.

Amend the subdivision heading preceding RSA 216-A:7 and RSA 216-A:7 as inserted by section 1 of the bill by replacing them with the following:

Conservation Corps

216-A:7 Conservation Corps Established. The director of the division of parks and recreation, in cooperation with the director of the division for children and youth services, department of health and human services, shall establish a conservation corps for the purpose of employing "youth at risk" in creating a hiking trail extending the length of the state or such other resource management and conservation projects deemed appropriate and necessary.

Amend RSA 216-A:8, I as inserted by section 1 of the bill by replacing it with the following:

I. The conservation corps program is designed to increase the sense of involvement and ownership by the participants in their state and to give them an opportunity to contribute something of lasting value to the state, by creating a new recreational resource for the state.

Amend RSA 216-A:9 and 10 as inserted by section 1 of the bill by replacing them with the following:

216-A:9 Duration of Corps. The conservation corps shall be a permanent and ongoing program.

216-A:10 Supervision of the Director of Parks. When the corps is organized, the director of the division of parks and recreation shall be responsible for the corps' activities and all aspects of the program by assuring that supervision, guidance, training, and other essentials that may be required by the participants when in the field are provided.

Amend RSA 216-A:12 as inserted by section 1 of the bill by replacing it with the following:

216-A:12 Acquisition of Rights to Use of Land. Where the proposed trail route passes through land owned by the federal government, or by a unit of county or municipal government, the state shall secure permission to construct a trail through such property. Where the land is owned by a private landowner, the state may negotiate an easement from the landowner.

Amend section 2 of the bill by replacing it with the following:

2 Appropriation. The sum of \$1 is hereby appropriated to the division of parks and recreation, department of resources and economic development, for the biennium ending June 30, 1989, for the purposes of this act. This appropriation shall be in addition to any other appropriation for the division for the biennium. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

Amendment adopted. Referred to Finance (Rule #24)

SB 275-A, relative to Skyhaven airport and making an appropriation therefor. Ought to Pass. Senator Johnson for the Committee.

SENATOR JOHNSON: This bill provides a certain sum of money to construct additional hangers at Senator Dupont's Skyhaven airport and the expenditure is self liquidating and it would be an improvement to this airport and the committee recommends approval.

Adopted. Referred to Finance (Rule #24).

RESOLUTION

Senator Dupont moved that the rules of the Senate be so far suspended as to allow all bills to be placed on third reading and final

passage, except for CACR 24, the right to counsel: providing that: the right to counsel shall not attach unless a determination has been made that imposition of a term of incarceration is probable; and all titles be the same as adopted, and that they be passed at the present time.

Adopted.

Third Reading and Final Passage

SB 265, relative to the operation of a bank acquired in a consolidation and to banking department fees and requirements.

SB 301-FN-A, relative to the deadline for an environmental impact study for a 4-lane east-west highway from Concord to the Spaulding turnpike.

SB 318-FN, establishing a committee to study the feasibility of establishing a New Hampshire zoological park.

SB 322-FN-A, relative to petroleum pollution cleanup.

SB 255, relative to school district boundaries.

SB 343-FN, relative to liability for expenses of children under the supervision of the division for children and youth services.

SB 315-FN, relative to the personnel appeals board.

SB 256, relative to voting in special school districts.

SB 319, relative to cancellation of insurance policies.

SB 286, relative to exchanging police information, on a reciprocal basis, with other states.

SB 287, relative to police assistance from other states.

SB 345-FN, relative to disciplinary proceedings conducted by the committee on judicial conduct.

SB 244-FN, making intentional transmission of AIDS a felony.

Senator Dupont moved that the Senate recess until 10:00 am, Thursday, January 28, 1988.

Adopted

Recess.

Tuesday, January 26, 1988

Out of Recess

INTRODUCTION OF GUESTS

COMMITTEE REPORTS

SB 278, relative to aid to assisted persons. Ought to Pass with Amendment. Senator Pressly for the Committee.

SENATOR PRESSLY: This bill was voted ought to pass unanimously by the committee. This bill corrects two statutory references in the sections dealing with aid to assisted persons. The bill also removes language limiting the effectiveness of liens to a lifetime of a person, being supported under this chapter but, adds language prohibiting enforcement of the lien against an assisted person, surviving spouse or dependent children. The bill amends the current statute providing for burial expenses for assisted persons who are veterans, to provide that the town in which the veteran lived before he died shall pay for his burial expenses, that funds received from the veterans administration toward burial expenses shall be retained by the municipality and the municipality shall request that a suitable monument be provided by the veterans administration.

AMENDMENT TO SB 278

Amend RSA 165:28 as inserted by section 2 of the bill by replacing it with the following:

165:28 Liens on Real Property. The amount of money spent by a town or city to support an assisted person under this chapter shall, except for just cause, be made a lien on any real estate owned by the assisted person. The liens are effective [during the lifetime of the person being supported by the town or city, or] until enforced as provided in this chapter, or until released by the selectmen or city council; provided that there shall be no enforcement of the lien so long as the real estate is occupied as the sole residence of the assisted person, his surviving spouse, or his surviving children who are under age 18 or blind or permanently and totally disabled. Interest at the rate of 6 percent per year shall be charged on the amount of money constituting such lien commencing one year after the date of the filing of the lien unless a majority of the selectmen in the town

or the councilmen in the city vote to waive such interest. The selectmen or council may file a notice of the lien or an acknowledgment of satisfaction of the lien with the register of deeds of the county in which the assisted person owns real property. A notice of lien which contains the owner's name and a description of the real property sufficient to identify it is a valid lien on the property. The register of deeds shall keep a suitable record of such notices without charging any fee therefor, and he shall enter an acknowledgment of satisfaction of the lien upon written request of the selectmen or the council without fee.

Amend the bill by replacing all after section 2 with the following:

3 Burial Expenses. RSA 165:16 is repealed and reenacted to read as follows:

165:16 Burial Expenses. Whenever any person, a resident in this state, who served in the armed forces of the United States in any of the wars or conflicts defined in RSA 165:17 for a total of 90 days, unless sooner released from such service by reason of disability incurred in service, and whose services were terminated under conditions other than dishonorable, dies and did not leave sufficient estate to pay the expenses of his funeral, or was an assisted person, the overseers of public welfare shall cause him to be decently buried at the expense of the municipality in which he died. Funds received from the Veterans' Administration towards burial expenses shall be retained by the municipality. The municipality shall make a request to the Veterans' Administration to provide a suitable monument.

4 Definition of Terms. Amend RSA 165:17, VI and VII to read as follows:

VI. "Korean Conflict" between June 25, 1950, and [the cessation of hostilities] January 31, 1955.

VII. "Viet Nam Conflict" between August 5, 1964 and [the end of hostilities as declared by Congress] May 7, 1975.

5 Repeal. RSA 165:7, 165:8, 165:9, 165:10, 165:11, 165:14, and 165:18, relative to veterans' relief, are repealed.

6 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted. Ordered to Third Reading.

SB 309-FN, enabling cities and towns to transfer revenues from the land use change tax to the local conservation commission. Ought to Pass with Amendment. Senator Pressly for the Committee.

SENATOR PRESSLY: The committee voted this bill ought to pass with amendment. This enabling legislation allows towns and cities to vote on whether or not they want to transfer a specified percentage of land use change tax revenues collected from each payment of the land use change tax, to the local conservation commission. The amendment simply adds this provision to other sections of the law for consistency. The vote of the committee was unanimous.

AMENDMENT TO SB 309-FN

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Revenue from Land Use Change Tax. Amend RSA 36-A:5 by inserting after paragraph II the following new paragraph:

III. In the municipality that has adopted the provisions of RSA 79-A:25, II, the specified percentage of the revenues received pursuant to RSA 79-A shall be placed in the conservation fund.

2 Disposition of Land Use Change Tax Revenue. RSA 79-A:25 is repealed and reenacted to read as follows:

79-A:25 Disposition of Revenues.

I. Except as provided in paragraph II, all money received by the tax collector pursuant to the provisions of this chapter shall be for the use of the town or city.

II. The legislative body of the town or city may, by majority vote, elect to place the whole or a specified percentage of the revenues of all future payments collected pursuant to this chapter in a conservation fund in accordance with RSA 36-A:5, III. The whole or specified percentage of such revenues shall be deposited in the conservation fund at the time of collection.

III. If adopted by a town or city, the provisions of RSA 79-A:25, II shall take effect in the tax year beginning on April 1 following the vote and shall remain in effect until altered or rescinded pursuant to RSA 79-A:25, IV.

IV. In any town or city that has adopted the provisions of paragraph II, the legislative body may vote to rescind its action or change the percentage of revenues to be placed in the conservation fund. Any such action to rescind or change the percentage shall not take effect before the tax year beginning April 1 following the vote.

3 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted. Ordered to Third Reading.

SB 344-FN, relative to the consignment of artwork. Ought to Pass. Senator Krasker for the Committee.

SENATOR KRASKER: This was a bill that was supported by the entire arts community. No one testified against it. It was a unanimous vote of the committee. It will protect artists and crafts persons. It would require a contract between artists and dealer. It would make certain that artworks held by a dealer could not be claimed as assets. It would make the dealer responsible for the loss of or damage to the work, the value of which will be established in the contract. We urge its adoption.

Adopted. Ordered to Third Reading.

SB 263, prohibiting the distribution and sale in the state of beverage containers marked as returnable for refund. Inexpedient to Legislate. Senator Pressly for the Committee.

SENATOR PRESSLY: The bill prohibits the sale or distribution of any beverage container in the state, on which is printed a legend that the container is returnable for a refund. The bill makes selling or distributing any such container a violation. The committee voted unanimously that this bill should be inexpedient to legislate. It was really a request that the legislature mandate procedures for private industry and the distribution of their bottling. We felt that was not the appropriate role for the legislature and we voted inexpedient to legislate.

Adopted.

SB 317-FN, relative to master plans and their housing section. Ought to Pass with Amendment. Senator Krasker for the Committee.

SENATOR KRASKER: The committee voted 317 ought to pass with amendment. The last time we met, I did distribute an amended fiscal note, which shows that there is not going to be any fiscal impact on anybody from the passage of this bill and I don't know where that is, but it should be available some place. The amendment strikes the original bill in its entirety. What this legislation does is expand current law in the housing section of the master plan statutes. It calls for an analysis of existing housing resources and addresses current and future housing needs of the residents of the municipality and of the region in which it's located, including the housing needs of persons and families of low and moderate income.

They would be identified in a regional housing needs assessment performed by the regional planning commission. David Scott from office of State Planning said there is money available in the budget to do this, should they be requested. It also gives a definition of low and moderate income persons and families as individuals whose gross income is 80% or less of the median income, according to the geographical area of the state. It also adds a prerequisite that only after the planning board has adopted the general statement of objectives the land use and the housing sections of a master plan can adopt a zoning ordinance. We urge its adoption.

AMENDMENT TO SB 317-FN

Amend the bill by replacing section 1 with the following:

1 Housing Section of Master Plan. RSA 674:2, III is repealed and reenacted to read as follows:

III. A housing section which analyzes existing housing resources and addresses current and future housing needs of the residents of the municipality and of the region in which it is located, including the housing needs of persons and families of low and moderate income, as identified in the regional housing needs assessment performed by the regional planning commission pursuant to RSA 36:47, II. As used in this paragraph, the phrase "persons and families of low and moderate income" means a single individual or family whose gross income is 80 percent or less of the median income of, respectively, all single persons or families, adjusted for family size, residing in the geographical area of the state as determined from time to time by the United States Department of Housing and Urban Development.

Amend the bill by replacing section 4 with the following:

4 Housing Needs Assessment. Amend RSA 36:47 to read as follows:

36:47 General Powers and Duties.

I. A regional planning commission's powers shall be advisory, and shall generally pertain to the development of the region within its jurisdiction as a whole. Nothing in this subdivision shall be deemed to reduce or limit any of the powers, duties or obligations of planning boards in individual municipalities. The area of jurisdiction of a regional planning commission shall include the areas of the respective municipalities within the delineated planning region. It shall be the duty of a regional planning commission to prepare a

comprehensive master plan for the development of the region within its jurisdiction, including the commission's recommendations, among other things, for the use of land within the region; for the general location, extent, type of use, and character of highways, major streets, intersections, parking lots, railroads, aircraft landing areas, waterways and bridges, and other means of transportation, communication, and other purposes; for the development, extent, and general location of parks, playgrounds, shore front developments, parkways, and other public reservations and recreation areas; for the location, type, and character of public buildings, schools, community centers, and other public property; and for the improvement, redevelopment, rehabilitation, or conservation of residential, business, industrial and other areas; including the development of programs for the modernization and coordination of buildings, housing, zoning and subdivision regulations of municipalities and their enforcement on a coordinated and unified basis. A regional planning commission may authorize its employees or consultants to render assistance on local planning problems to any municipality or county which is not a member of said regional planning commission. The cost of such assistance shall be paid entirely by the municipality or county to which the service is rendered or partly by said municipality or county and partly by any gift, grant, or contribution which may be available for such work or by combination thereof. Said commission shall keep a strict account of the cost of such assistance and shall provide such municipality or county with an itemized statement.

II. For the purpose of assisting municipalities in complying with RSA 674:2, III, each regional planning commission shall compile a regional housing needs assessment, which shall include an assessment of the regional need for housing for persons and families of low and moderate income. The regional housing needs assessment shall be updated every 5 years and made available to all municipalities in the planning region.

5 Effective Date. This act shall take effect July 1, 1988.

Amendment adopted. Ordered to Third Reading.

SB 337-FN, adopting the uniform federal lien registration act. Ought to Pass with Amendment. Senator Pressly for the Committee.

SENATOR PRESSLY: The committee voted this bill ought to pass with amendment. This legislation would require federal tax liens and certain other federal liens on real estate property to be filed

with the register of deeds. Notice of federal tax liens and other federal liens upon personal property and certificates and notices effecting such liens shall be filed either in the Secretary of State's office or the office of the clerk in the town or city where the person on whom the lien is applicable resides. Current New Hampshire law does not currently provide specific direction as to how such federal liens should be filed. Enactment of this bill will reduce the cost of real estate title searches.

The amendment makes a correction in the bill regarding the filing of federal liens upon personal property and amends the fee section to clarify the difference between the two. The majority of the committee felt that this was a good consumer bill as well as for the industry. It saves time in looking up liens as you would be able to find out if there were any federal liens in the same place. Everything will now be registered with the register of deeds.

AMENDMENT TO SB 337-FN

Amend RSA 454-B:2, III(d) as inserted by section 1 of the bill by replacing it with the following:

(d) In all other cases, in the office of the clerk of the town or city where the person against whose interest the lien applies resides at the time of filing of the notice of lien.

Amend RSA 454-B:5 as inserted by section 1 of the bill by replacing it with the following:

454-B:5 Fees. The fee for filing and indexing each notice of lien or certificate or notice affecting the lien at the applicable registry of deeds shall be in accordance with the fees established pursuant to RSA 478:17-g and at the office of the secretary of state or the clerk of any city or town shall be in accordance with the fees established pursuant to Article 9 of RSA 382-A, the uniform commercial code.

Amend the bill by replacing section 3 with the following:

3 Effective Date. This act shall take effect upon its passage.

Amendment adopted. Ordered to Third Reading.

SB 250, changing the reporting date for the task force to study support services for families with developmentally disabled children. Ought to Pass. Senator Bond for the Committee.

SENATOR BOND: This bill changes the reporting date for the task force to study support services for families with developmentally disabled children from December 30, 1987 to December 1, 1988. The reason for this is that the task force job turned out to be much more complex than it had originally anticipated. We urge your support.

Adopted. Ordered to Third Reading.

SB 259, relative to child custody. Ought to Pass. Senator Krasker for the Committee.

SENATOR KRASKER: In 1981 New Hampshire enacted a law that provided a presumption that joint legal custody is in the best interest of minor children, when a divorce occurs. SB 259 creates an exemption to that presumption in cases involving domestic abuse. It will require judges to use violence and abuse as evidence in awarding joint custody. Our committee heard heart breaking cases of abuse and violence instances where the abuse continued after divorce and did a frightful job to children. This is another measure to protect children against domestic abuse and our committee urges its adoption.

Adopted. Ordered to Third Reading.

SB 306-FN, relative to low-dose mammography screening. Ought to Pass with Amendment. Senator Krasker for the Committee.

SENATOR KRASKER: Cancer is the second leading cause of death in New Hampshire. Breast cancer is the leading cancer site among women. During the years 1985 and 1986, 381 New Hampshire women died as a result of breast cancer. Eight deaths were of women under the age of 35, six between the ages of 35 and 39, 36 between the ages of 40 and 49 and 331 deaths were of women 50 years or older. SB 306 provide for insurance coverage for screening mammograms as well as diagnostic mammograms. These will be done according to guidelines of base line mammogram for women 35 to 39, a mammogram every one to two years even if there are no symptoms present for women ages 40 to 49, an annual mammogram for women 50 years of age or older. Screening mammograms detect cancer in the very earliest stage and this increases the chance for long term survival by as much as 40%. It is a good bill, it will save lives, it's cost effective. Dr. Ross MacIntyre from the Nora Cotton Cancer Center, in supporting the bill, commented that our health costs are going up because we spend our resources treating terminal illness. It is far better and more cost effective to emphasize preventive measures. This bill will do that and I urge its adoption.

SENATOR JOHNSON: Senator Krasker, is it fair to conclude that the insurance industry really didn't get the message of the importance of mammography's and that because of that, this bill really becomes necessary?

SENATOR KRASKER: It becomes necessary from their standpoint, I think, because it is cost effective.

Amendment to SB 306-FN

Amend RSA 417-D:2, I as inserted by section 2 of the bill by replacing it with the following:

I. Each insurer that issues or renews any policy of accident and health insurance providing benefits for hospital expense, medical-surgical expense, or major medical expense shall provide in each group or individual policy, contract, or certificate of insurance issued or renewed for persons who are residents of this state, coverage for screening by low-dose mammography for all women 35 years of age or older for the presence of occult breast cancer within the provisions of the policy, contract, or certificate. The coverage shall be as follows:

- (a) A baseline mammogram for women 35 to 39 years of age.
- (b) A mammogram every 1 to 2 years, even if no symptoms are present, for women 40 to 49 years of age.
- (c) An annual mammogram for women 50 years of age or older.

Amend section 3 of the bill by replacing it with the following:

3 Applicability. RSA 417-D as enacted by section 2 of this bill shall apply to all policies, contracts, certificates of insurance, or other evidence of insurance affecting a resident of New Hampshire whether executed, delivered, issued for delivery, or renewed in this state or any other state, and whose anniversary date occurs on or after January 1, 1989.

Amendment adopted. Ordered to Third Reading.

SB 323-FN, to extend eligibility for aid to the permanently and totally disabled to children under the age of 18. Ought to Pass with Amendment. Senator Podles for the Committee.

SENATOR PODLES: SB 323-FN extends medical assistance to children under the age of 18 who are eligible for federal supplemental security income program, and the state aid to the permanently

and totally disabled program. Currently, the program mandates medical assistance coverage to eligible children under five and dependent children in AFDC households. SSI and APTD children in intact families are not categorically eligible for medical assistance until they reach the age of 18 when they would qualify as individual applicants. This is a tremendous hardship for parents and families as a whole. Almost 400 children fall through the cracks. These children incur extraordinarily high medical expenses because of birth defects, cardiac problems, spina bifida, cancer, spinal cord injury or hemophilia. A wheel chair costs 2600 dollars, braces 1200 dollars, and if you have these Blue Cross and Blue Shield it will cover part of it, for some of them it is impossible to obtain insurance and this breaks families apart. This is the third time this bill is introduced. The federal government reimburses the state for half the cost and this should have been passed years ago.

The amendment instructs the director of the division of health and human services to adopt rules relative to providing medical assistance to this category of children. The committee recommends ought to pass with amendment.

AMENDMENT TO SB 323-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to providing medical assistance to children who
are disabled or victims of catastrophic illness.

Amend the bill by replacing all after the enacting clause with the following:

1 Rules; New Paragraph; Assistance for Children. Amend RSA 167:3-c by inserting after paragraph V the following new paragraph:

VI. Establishing an optional state coverage group under RSA 167:6, VII to provide medical assistance for children under the age of 18 years who are disabled or who are victims of catastrophic illness.

2 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted. Ordered to Third Reading.

SB 276-FN, establishing a panel to address the effectiveness of the delivery of services to children and their families. Ought to Pass with Amendment. Senator Podles for the Committee.

SENATOR PODLES: SB 276-FN establishes a panel to assess the needs and to make recommendations regarding improvements of services to children and their families in this state. It will develop an agenda for the 1989 legislature. The amendment adds more people to the panel and it brings the total up to 18. The committee recommends ought to pass with amendment.

AMENDMENT TO SB 276-FN

Amend the introductory paragraph of paragraph II as inserted by section 1 of the bill by replacing it with the following:

II. The membership of the panel shall include:

Amend subparagraphs II(k) and (l) as inserted by section 1 of the bill by replacing them with the following:

(k) one person representing the New Hampshire Group Home Association, appointed by the governor;

(l) two persons appointed by the governor on the basis of their commitment to child advocacy issues;

(m) one member of the New Hampshire Association of Counties, appointed by that organization;

(n) one full-time judge and one part-time judge of the New Hampshire district court system, appointed by the President of the New Hampshire Judges' Association;

(o) one member from the house of representatives, appointed by the speaker of the house, or his designee; and

(p) one member from the senate, appointed by the president of the senate, or his designee.

Amendment adopted. Ordered to Third Reading.

SB 342, amending the certificate of need law. Ought to Pass with Amendment. Senator Bond for the Committee.

SENATOR BOND: This bill was requested by the office of health services planning and review. The original bill is amended on page 37 because some of their demands were considered beyond reason by the hospital and nursing home people. It adds a new exemption for facilities servicing outpatients, which do not require construction of greater than 1 million dollars on new equipment costing more than 400,000 dollars. It requires only a majority of the eligible board members, because of their problem with quorums caused by some members having conflicts of interest in having to not attend board

meetings. It allows the board to require an applicant to file scope changes, if in the board's opinion a proposed project has changed substantially from the information included in the original application.

The amendment eliminates language that was in the original bill, which would have extended the time that the board had to deal with standards for new projects from 120 days to 180 days and it changed the language on the construction of the board vote. The committee recommends ought to pass with amendment.

SENATOR BLAISDELL: Senator Bond, a couple three weeks ago, before administrative rules, there was a rule change supposedly by the department to bypass the certificate of need process if other hospitals wanted to come in to change beds. Is that in there at all?

SENATOR BOND: No.

SENATOR BLAISDELL: The second thing is, in 1985 the federal government, and also this body here, changed the rule that said the certificate of need process had to go through that process to sell a health facility, is that out of there?

SENATOR BOND: There was a requested in the original bill which would have provided for notification of change of ownership and that was not included.

Amendment to SB 342

Amend the bill by replacing section 8 with the following:

8 Reference Changes. Amend RSA 151-C:5, II(c) to read as follows:

(c) The development and offering of [special] new inpatient services [to include, but not be limited to, alcohol and drug dependency, psychiatric services, and physical rehabilitation];

Amend the bill by replacing all after section 8 with the following:

9 Board. Amend RSA 151-C:8, II to read as follows:

II. The [staff of the] board shall be available to provide technical assistance to any applicant submitting an application in response to a request for applications.

10 Application. Amend RSA 151-C:8, IV to read as follows:

IV. Every application shall [be in such form and] contain such information as the board adopts by rule. The board shall not require any information which it has not adopted by rule. The information

requirements established by the board may vary according to the purpose of the review or the type [or] of health service being reviewed. In addition to the information required for submission to the board, any applicant may submit, and the board shall duly consider, any other information.

11 Time Change. Amend RSA 151-C:8, V(b) to read as follows:

(b) An applicant whose application is incomplete shall be allowed a maximum of 15 business days, from the date of receipt of notification of incompleteness, to provide the required additional information. The applicant shall not provide more than the required additional information. The board shall then review the additional information provided by the applicant; and, if satisfactory, the application shall be considered complete and the applicant shall be notified by certified mail. If the application is still found to be incomplete, the board shall mail the applicant a notification within [5] 10 business days of receipt of the additional information. If no such notification is mailed to the applicant by the board within the [5] 10 business days period, the application shall be considered complete. Within 5 business days of the receipt of any information submitted pursuant to the second completeness notice, the board shall notify the applicant as to whether such information is satisfactory and the application shall be considered complete.

12 Notice Requirements; Reference Changes. Amend RSA 151-C:8, VI(a) and (b) to read as follows:

VI.(a) Within 10 business days of completion of the completeness review under paragraph V of this section, the board shall mail, to any qualified applicant, a notice that formal review of the application has begun and shall publish the notice in other than the legal notice section of one or more newspapers of general circulation in the state and in one or more newspapers of general circulation in the service area of the facility to be reviewed. The board shall provide all affected persons, as defined in subparagraph (b), with written notification of the beginning of a review. The notice shall include a statement that review has begun[,] and the proposed schedule for review by the board[, and the date the public hearing notice shall be posted, which may not be more than 45 days from the notification of the beginning of review].

(b) For purposes of this paragraph, "affected persons" include health systems agencies for contiguous health service areas, all health care facilities and health maintenance organizations included on the comprehensive mailing list developed and maintained pursuant to RSA 151-C:5, I(a), the New Hampshire Hospital Association, the New Hampshire Medical Society, the New Hampshire Health Care Association, the Community Health Care Association, the

New Hampshire Association of Counties, third-party payors licensed and doing business in this state, and members of the public who are to be served by the proposed [new institutional health service] project. For purposes of this paragraph, notification of all qualified applicants in which the proposed [new institutional health service] project is to be offered or developed shall be by certified mail. Notification to all affected persons, except members of the public, shall be by mail. Notification to members of the public shall be by the publication required in this paragraph. Notification to third-party payors licensed and doing business in the state shall be to those third-party payors who have complied with an annual notification as of the effective date of this provision informing them that if they wish to be included on a certificate of need mailing list, they shall submit a written request to the board within 30 days.

13 Reference Change. Amend RSA 151-C:8, X to read as follows:

X. The board shall provide in its review procedures for a public hearing. The board shall, prior to such hearing, provide notice of such hearing in accordance with the notification provisions in paragraph VI of this section. The procedures for a public hearing shall include an opportunity for any person to present testimony regarding the proposed [new institutional health service] project, the right of any persons testifying to be accompanied and advised by legal counsel, the right of any qualified applicant to cross-examine witnesses, and the establishment of a formal record of the hearing. The board shall not impose any fee for such a public hearing.

14 Amendments to Applications. Amend RSA 151-C:8, XII(a) to read as follows:

XII.(a) After an application has been filed with the board, the applicant may request to amend the application only during the 45 days after the date of notification of the beginning of review. Upon written request to the board by the applicant, this period may be extended by the board, in accordance with the provisions of paragraph VIII.

15 Majority Vote. Amend RSA 151-C:9, I to read as follows:

I. Upon completion of the review, the board, by majority vote of eligible board members, shall render a decision on the applicant or applicants which filed in response to a request for application. Any board member who has a personal or business conflict with any application shall not vote on such application. The decision shall be in the form of an approval, denial, or an approval with conditions. An approval of a certificate of need shall be in conformance with the standard used as the basis for the request for application.

16 Reference Changes. Amend RSA 151-C:12, II to read as follows:

II. Pursuant to a showing of good cause by the person proposing the [new institutional health service] project, the board shall extend by 6 months the period for commencement. A maximum of 2 such extensions shall be allowed. Upon a showing of substantial, diligent progress and good cause by the person proposing the [new institutional health service] project, the board shall grant up to a maximum of 2 extensions of 6 months each for completion of the project. For purposes of this paragraph, "good cause" includes delay resulting from unpreventable or unexpected occurrences, such as emergency, strike, disaster, unforeseen shortage of materials or other reasonably unforeseeable event.

17 Reference Changes. Amend RSA 151-C:12, III(a) and (b) to read as follows:

(a) The [proponent of the new institutional health service] applicant has submitted to the board a certified copy of a written agreement executed between the [proponent] applicant and a registered general contractor to construct and complete the project within a designated time schedule in accordance with final architectural plans and specifications; [and] or

(b) The applicant has submitted evidence to the board that there has been construction work on the project to justify and require a progress payment by the [proponent] applicant to the general contractor under the terms of the construction agreement, or, if the construction agreement does not require progress payments, then construction has progressed to the state at which an initial progress payment would otherwise be required in accordance with the usual and customary practices of the building industry.

18 Reference Change. Amend RSA 151-C:12, IV to read as follows:

IV. For purposes of this chapter, completion shall mean when the approved [new institutional health service] proposed project is sufficiently complete so that it becomes operational for the purpose for which the certificate of need was issued. A certificate of need shall be valid only for the designated scope of the project and for the premises and geographical area named in the application. A certificate of need granted for a project shall not be considered as an approval of that portion of the total actual cost of such a project which is in excess of the sum of: (a) the anticipated cost designated in the application; (b) an additional 15 percent of the total cost; and (c) cost increases clearly attributable to inflation.

19 New Paragraph; Changes in Project. Amend RSA 151-C:12 by inserting after paragraph IV the following new paragraph:

IV-a.(a) Prior to completion of the proposed project, the board may require any applicant to file a change of scope when any documentation or other material submitted to the board indicates that:

(1) The nature, scope, or location of the project will differ substantially in the opinion of the board from those described in the application.

(2) The method of financing will differ substantially because the estimated capital expenditure will exceed that proposed in the application by 15 percent plus the inflation factor, as specified in RSA 151-C:12, IV.

(3) The identity of the applicant has changed.

(b) The board may waive the requirements of subparagraph (a)(1), (2) or (3), if it is determined that the proposed change in scope of the project is technical or otherwise insignificant.

20 New Subparagraph; Exemption Added. Amend RSA 151-C:13, I by inserting after subparagraph (e) the following new subparagraph:

(f) Facilities and services which are intended to serve only outpatients and which do not require construction of greater than \$1,000,000 or new equipment costing more than \$400,000.

21 Repeals. The following are repealed:

I. RSA 151-C:2, XVII, relative to certain health maintenance organizations.

II. RSA 151-C:2, XIX, relative to home health agency.

III. RSA 151-C:2, XXI, relative to independent diagnostic laboratory.

IV. RSA 151-C:2, XXXII, relative to qualified applicant.

22 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted. Ordered to Third Reading.

SB 348, relative to licensing of health care facilities. Ought to Pass with Amendment. Senator McLane for the Committee.

SENATOR MCLANE: This bill was requested by the division of public health services and the department of health and human services. The amended analysis appears on page 41 of the calendar. The bill as amended exempts health care facilities maintained and operated for the continuing care of three or fewer persons, as related to one person before, from the provisions of RSA 151, requiring a license. The bill also requires that notice be sent to the holder of a license under RSA 151 when the division intends to reclassify the license and the holder of the license may request a hearing.

AMENDMENT TO SB 348

Amend section 1 of the bill by replacing it with the following:

1 Licensing Exemption. Amend RSA 151:2 to read as follows:

151:2 Requirement for License. No hospital or other facility, building, residence, private home, home health care provider, or other place or part thereof, however named, whether operated for profit or not, which is advertised, offered, maintained or operated by the ownership or management, whether for a consideration or not, for the express or implied purpose of providing diagnosis or treatment, or medical, nursing, obstetrical or other remedial or personal care or supervision or sheltered services for persons who are suffering from illness, injury, deformity, infirmity or other physical or mental handicap shall be established, conducted or maintained in this state without first obtaining a license therefor in the manner provided in this chapter. This requirement includes diagnostic or treatment facilities such as community health centers, outpatient clinics and laboratories operated by public, voluntary, commercial or professional associations or organizations, and also includes any facility in which mentally disabled or developmentally disabled persons are housed, whether or not the facility is considered a health facility. However, nothing herein shall be construed as requiring the licensing of facilities which are maintained and operated for the continuing care of [one person] 3 or fewer persons; of facilities maintained and operated for the sole benefit of persons related to the owner or manager by blood or marriage within the third degree of consanguinity; of facilities maintained and operated by any church or religious denomination solely for those ordained clergy, members of religious orders or their bona fide guests who are provided care without charge provided such facility was fully operational on or before January 1, 1979; of physicians' offices and related facilities; of offices and related facilities of other persons licensed in this state to practice a health care profession; or of facilities which may be exempted by rules adopted under this chapter.

Amend the bill by replacing section 8 with the following:

8 Reference Changed. Amend RSA 151:9, III to read as follows:

III. The [state board of fire control] state fire marshal, after consultation with the division of public health services, shall have the authority to adopt rules pursuant to RSA 541-A, and supervise and enforce all laws relative to the protection of life and property from fire, fire hazards and related matters, and it may make or cause to be made inspections relative to such matters.

9 Effective Date. This act shall take effect upon its passage.

Amendment adopted. Ordered to Third Reading.

SB 260-FN, relative to detection of airborne radon in homes. Ought to Pass. Senator St. Jean for the Committee.

SENATOR ST. JEAN: This bill was requested by the director of division of public health services. What it does is it gives the rule-making authority to conduct home inspections upon request, offers technical assistance and education for airborne radon, also allows him to look into potential health problems in regards to radon in people's homes.

Adopted. Ordered to Third Reading.

SB 284-FN-A, relative to exemption from tolls on the New Hampshire turnpike system. Ought to Pass with Amendment. Senator Preston for the Committee.

SENATOR PRESTON: The amendment you see is on page 13 of calendar #7. This bill relates the exemption from tolls on the New Hampshire turnpike system and it indicates that the legislature shall determine who travels without paying tolls upon those highways, includes elected members of the legislature, state county municipal owned officials. It allows the commission of the department of safety, in their work with undercover vehicles, or whatsoever, to use the appropriate tokens. The commissioner of the department of transportation may grant at his discretion toll free use of the turnpike system to any person he deems appropriate. However he must come back to the legislature in the next session for approval.

AMENDMENT TO SB 284-FN-A

Amend the bill by replacing all after the enacting clause with the following:

1 Exemption From Tolls. RSA 237:12 is repealed and reenacted to read as follows:

237:12 Exemption From Tolls.

I. The following motor vehicles and personnel operating such vehicles shall be granted toll-free use of any section of the New Hampshire turnpike system:

(a) An elected member of the general court with proper identification by a legislative license plate, during his term of office.

(b) All state, county and municipal owned vehicles with permanent plates.

II. The commissioner of the department of safety may request tokens from the department of transportation for vehicles operated by the New Hampshire state police and undercover vehicles not dis-

playing permanent plates. Accounting procedures for such tokens shall be established by the commissioner of the department of transportation.

III. The commissioner of the department of transportation shall issue appropriate identification for turnpike employees and employees of state liquor stores on the turnpike, when said employees have to use the turnpike to get to their places of employment. Such identification shall permit toll-free use of the New Hampshire turnpike system only to the extent required by an employee covered in this paragraph to get to and from his place of employment.

IV. The commissioner of the department of transportation may grant, at his discretion, toll-free use of the turnpike system to any person he deems appropriate, by providing proper identification to such person; provided, however, for those persons granted toll-free use pursuant to this paragraph, the commissioner shall propose legislation for consideration at the next session of the general court. If such legislation is not enacted into law, such exemption shall expire at the end of that particular session.

2 Repeal. The following are repealed:

I. RSA 237:25, relative to exemption from tolls on the eastern turnpike system.

II. RSA 237:41, relative to exemption from tolls on the central turnpike system.

3 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted. Ordered to Third Reading.

SB 292-FN, establishing a study committee to examine the future air travel needs of New Hampshire. Ought to Pass with Amendment. Senator Pressly for the Committee.

SENATOR PRESSLY: This bill establishes a committee to examine the air travel needs of New Hampshire, including the feasibility of building a new airport or expanding Manchester airport. The amendment increases the number to serve on the committee to nine and to include someone from the business community. Everyone felt that that was appropriate. It also has an amendment in there that applies only to the city of Nashua and it is strictly to permit their airport authority to have alternate members. The age old problem of quorums and people being interested. Harold Buker from the division of aeronautics was delighted with this bill. He feels that it is a chance to look at all airports in the state. He is strongly in favor of the bill, as is Richard Brunney from the Manchester airport author-

ity. Everyone who spoke seemed very pleased that this was happening and felt it was timely and the committee voted ought to pass with amendment.

AMENDMENT TO SB 292-FN

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a study committee to examine the future air travel needs of New Hampshire and relative to the management of the Nashua Airport Authority.

Amend the bill by replacing all after the enacting clause with the following:

1 Study Committee Established; Duties. There is established a study committee to examine the feasibility of expanding Manchester Airport or of building a new airport to accommodate the future air travel needs of the state of New Hampshire. The committee shall study the future air travel needs of the state of New Hampshire, including, but not limited to, the feasibility of building a new airport or expanding Manchester Airport. The committee shall consist of 9 members, as follows:

I. Two members of the house of representatives, appointed by the speaker.

II. Two members of the senate, appointed by the senate president.

III. The commissioner of transportation or his designee.

IV. The director of the division of aeronautics or his designee.

V. Two public members, one representing the business community, appointed by the governor.

VI. The director of the office of state planning or his designee.

2 Report. The committee shall submit its findings together with its recommendations to the speaker of the house, the president of the senate and the governor no later than December 1, 1988.

3 Compensation. Members of the study committee shall serve without compensation, except that members of the legislature shall receive mileage at the legislative rate.

4 Alternates Appointed. Amend 1961, 343:4 to read as follows:

343:4 Management.

I. The management of said corporation shall be vested in a board of five directors, to be appointed by the mayor and confirmed by the board of aldermen, one of whom shall be designated as chairman.

Not more than three of such members shall be of the same political party. One member shall be appointed originally for five years, a second for four years, a third for three years, a fourth for two years and a fifth for one year. Thereafter each appointment shall be for five years and a member shall serve until his successor shall have been appointed. All members shall serve without salary but they may be reimbursed for expenses incurred in the performance of their duties. The mayor and board of aldermen may at any time remove a director for inefficiency, neglect of duty or malfeasance in office; but no director shall be removed without a hearing, after notice in writing of the charges against him.

II. The mayor, with the confirmation of the board of aldermen, may appoint 3 alternate directors who shall serve if a regular director is unable to fulfill his duties. Not more than 2 of such alternate members shall be of the same political party. The terms of the alternate members shall be the same as that of the respective members under paragraph I.

5 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted. Ordered to Third Reading.

SB 279, relative to motor vehicle emissions testing. Without Recommendation. Senator Preston for the Committee.

SENATOR PRESTON: I would like to substitute the words ought to pass for without recommendation. There was to be an amendment prepared as requested by the committee. It wasn't ready the other day, it is not ready yet according to Senator Pressly, who has been working diligently on it. The motion now would be to table it.

Senator Preston moved to lay SB 279 on the table.

Adopted.

SB 285-FN-A, establishing one-way tolls on the New Hampshire turnpike system and making an appropriation therefor. Without Recommendation. Senator Preston for the Committee.

Senator Preston moved to substitute Ought to Pass.

Senator Preston offered a floor amendment.

SENATOR PRESTON: The amendment as shown on page 14 is not the amendment that was in time for the committee to deliberate upon. There is an amendment to be passed out on SB 285.

The amendment makes a very simple change in the toll system statutes. It provides that tolls shall not be increased by more than 20% in any 12 month period unless a greater increase is specifically authorized by the general court. Simply, some increases were made in the interim of the last session, a lot of complaints made, a lot of political pressures, the turnpikes people reduced them and it was an embarrassment. This way we know that we can approve more than 20% in a 12 month period.

Floor Amendment to SB 285-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

limiting toll increases on the New Hampshire
turnpike system.

Amend the bill by replacing all after the enacting clause with the following:

1 Tolls on the New Hampshire Turnpike System. Amend RSA 237:9 to read as follows:

237:9 Tolls. The commissioner of transportation, with the approval of the governor and council, shall establish toll rates and other charges for use of the New Hampshire turnpike system or any part of the right-of-way and other property acquired in connection therewith. The governor and council shall approve or reject the commissioner's proposed toll rates and other charges within 90 days of receiving them; provided, however, that tolls shall not be increased more than 20 percent in any 12-month period, unless a greater increase is specifically authorized by the general court. The tolls collected shall be deposited with the state treasurer who shall keep the same in a separate account for the New Hampshire turnpike system and the operating expenses and maintenance costs of the system shall be paid from said account. From the balance remaining after payment of operating expenses and maintenance costs, there shall be paid the interest and principal on the bonds issued to finance the system. Fourteen days previous to the time any such interest or principal is payable, the state treasurer shall examine the existing balance and, except as otherwise provided in RSA 237:10, if such balance is insufficient to make the payment, then he shall notify the governor who shall immediately draw his warrant on the highway fund to cover any deficit and if the funds in both of the above accounts are insufficient, the governor shall draw his warrant upon the

state's general fund to the amount necessary to meet the payments. Any funds paid out from the state's highway fund or general fund for the above purposes shall be reimbursed from the collection of tolls as soon as such funds are available. Any funds that have been or may be expended for any portion of the system by the department of transportation shall be repaid to said department when, in the opinion of the governor and council, sufficient funds are available. Any excess income may be used for further system extensions in accordance with RSA 237:5, II(m). No provision of this chapter shall constitute a covenant with bondholders with respect to the charging, collection or disposition of tolls.

2 Repeal. The following are repealed:

I. RSA 237:24, relative to tolls on the eastern New Hampshire turnpike.

II. RSA 237:40, relative to tolls on the central New Hampshire turnpike.

3 Effective Date. This act shall take effect upon its passage.

Floor amendment adopted. Ordered to Third Reading.

SB 339-FN-A, establishing a committee to study the network of airports operating in New Hampshire. Ought to Pass with Amendment. Senator Preston for the Committee.

SENATOR PRESTON: The amendment can be seen on page 35 and 36 of calendar #7. Essentially, the bill, as amended, allows the state the right of first refusal if privately owned airports are for sale. At the particular price it has been determined that private individuals will pay for them. You might be aware of some airport closures. There was an airport in the North Conway area that is no longer in existence, that has been developed for shopping centers and condominiums. All this does is give the state the right to buy at the time of the sale of an airport, if they figure it's needed in an integrity of transportation system by air. The price paid would be the same, whatever was out there in the market place. The bill also authorizes municipalities to establish airport districts, in which services are provided relating for maintenance in operation of the airports as they might overlap in different municipalities. It also authorizes two or more municipalities working together with the approval of the governor and council to enter into cooperative agreement to share their property tax basis.

SENATOR DUPONT: I first off want to commend the transportation committee and Senator Preston for the work that they did on this bill. I had originally introduced a study bill for the purpose of

accomplishing what this bill accomplished, and Senator Pressly in her wisdom had also introduced a bill that basically did the same thing. I think many of those individuals in the state, that are familiar with what is going on in the aviation community, recognize the fact that as New Hampshire grows and as Massachusetts' problems with Logan get more and more severe, that New Hampshire is going to have to develop facilities that are capable of serving the people of our state. For that reason this bill is very, very important because it protects the integrity of the system that we already have in place. I really urge the Senate to look hard at this because it is a very, very important bill for the future in New Hampshire.

SENATOR HOUNSELL: I think it is a good bill by and large, but I do think there is one little problem and, I don't speak against the bill, I do urge its adoption with this amendment. I see some words that I don't think are the intent of the aeronautics board. That is on page 36 of your calendar, the amendment that says 423A:2 I it reads; any two or more municipalities with the approval of governor and council, the state in any municipality may enter into a corporate agreement to share all or a specific part of the commercial industrial or residential assessed valuation located within the airport boundaries. Then it specifies what that agreement would be and it says a description of the tax base to be shared. My reading of this bill and, I think it is correct, is that if town A has an airport facility within town B, and town A and B couldn't come to an agreement amongst themselves to share the tax space, then town A, the one who has the airport in town B, could then go to the state and the state in that first town could enter into that agreement, in effect take taxes that belong to town B out. I don't think that is reason enough not to pass this bill, but I do think that when this bill goes to the House that that should be cleaned up because I am certain that the intent from the testimony that I sat in on and received was that that is not the intent but, I think it has to be straightened out. I just point that out.

SENATOR DUPONT: Senator Hounsell, would you believe that the intent was not to provide a situation that the municipality of the community could loose their control over their tax base and, that would you also believe that when it goes over to the House that I will go over there and take care of that problem?

SENATOR HOUNSELL: I have no doubt that that is the case, Senator Dupont, and I commend you for the introduction of this bill and what this bill can do for air travel in the State of New Hampshire and I do stand in support of it.

AMENDMENT TO SB 339-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to purchasing airports, establishing airport districts,
and airport property tax base sharing agreements.

Amend the bill by replacing all after the enacting clause with the following:

1 Statement of Purpose. The general court recognizes that it is in the public interest for the state to acquire privately owned airports by gift or purchase to protect their future operation as airports. The general court notes that those airports which are open to public use, important to the state's airport system and necessary for regional well-being should be acquired by the state. The general court, therefore, provides in the act for the state's right of first refusal when airports operating in New Hampshire are sold.

2 New Subdivision; Right of First Refusal. Amend RSA 422 by inserting after section 45 the following new subdivision:
Purchase of Privately-Owned Airports

422:46 Purchase Price for Airports. All airports within the state offered for sale by any person after the effective date of this section shall be offered for sale to the state of New Hampshire in the first instance. The state of New Hampshire, acting through the director of aeronautics with the approval of governor and council, shall have a right to match any verifiable bona fide offer made for such airports within the limits of funds available to the director for this purpose.

3 New Subdivision; Airport Districts. Amend RSA 31 by inserting after section 125 the following new subdivision:
Airport Districts

31:126 Purpose. The declared purpose of this subdivision is to enable municipalities to establish airport districts in high density areas of predominantly commercial uses to provide airport services and to authorize the establishment of charges to owners of property within such airport districts in an amount not to exceed the costs to the municipality of providing such services at levels over and above those provided in the balance of the municipality.

31:127 Authority Granted. For the purposes of this subdivision, the legislative body of any city or town shall have the authority to establish an airport district.

31:128 Services Advisory Committee; Cost.

I. The services which may be provided by a municipality in an airport district under the provisions of this subdivision shall be services related to the maintenance and operation of an airport for public use.

II. The legislative body of each municipality electing to establish an airport district shall appoint an advisory board of 7 members, not fewer than 5 of whom shall be owners or tenants of property within the proposed district. Upon consultation with the advisory board, the legislative body of each municipality shall define the airport district, select specific services and levels of services to be provided in the district, and, subject to RSA 31:129, authorize which specific department, agency, or other party is to undertake the work.

III. The costs of providing special services in the airport district shall be those accruing to the municipality which result exclusively from the provision of services in the district which exceed those being provided in the balance of the municipality. The costs of services provided throughout the municipality or available to all properties and the costs of services or levels of services regularly and routinely provided within the central business service district prior to the effective date of this section, may not be included as costs for the purpose of this subdivision. Further, capital expenditures, with the exception of tools and equipment utilized in the normal business practice of and incidental to, the provision of services set forth in paragraph I may not be included as costs for the purpose of this subdivision.

31:129 Method of Appropriation. Each municipality shall adopt a budget for services to be performed in an airport district as part of its budget process. At the end of the fiscal year, a full accounting of expenditures shall be made. Balances or deficits of the airport district account shall be reflected in the subsequent year's account budget to offset appropriation requirements.

31:130 Assessments. Upon local adoption of the budget, the municipality may levy assessments in an amount not greater than the net appropriation to an airport district account. Assessments shall be billed and collected as specified by ordinance. Interest and other collection procedures shall be made by the tax collector or other official responsible for property tax collection. Enforcement powers for nonpayment shall be the same as those provided under RSA 80 relative to property tax collection.

31:131 Airport Aeronautic Fund. All fees, rents and other income generated within an airport district shall be deposited in the airport aeronautical fund established pursuant to RSA 423:6.

4 New Chapter; Tax Base Sharing. Amend RSA by inserting after chapter 423 the following new chapter:

CHAPTER 423-A
AIRPORT PROPERTY TAX BASE SHARING

423-A:1 Purpose. The purpose of this chapter is to increase the possibility of orderly airport development and to provide an incentive for coordinated multicomunity development of airport property within the airport boundary by permitting 2 or more public entities to share their tax bases.

423-A:2 Cooperative Tax Base Sharing Agreements.

I. Any 2 or more municipalities or, with the approval of the governor and council, the state and any municipality may enter into a cooperative agreement to share all or a specific part of the commercial, industrial, or residential assessed valuation located within the airport boundaries.

II. Any such agreement shall specify the following:

- (a) Its duration which shall be 10 years or more;
- (b) A description of the tax base to be shared, including, but not limited to, the type of property, the location of the property and whether it is existing, planned, or future construction.
- (c) The formula for sharing the property taxes generated through taxation of the valuation which is to be shared.
- (d) Any other necessary and proper provisions.

423-A:3 Filing of Agreement. Any agreement entered into pursuant to this chapter shall be filed with the clerk of each municipality, the division of aeronautics, and the secretary of state.

423-A:4 Administration. The shared valuation shall be assessed in the municipality in which the property is located. It shall be taxed at the rate applicable in that municipality. The tax so assessed shall be collected by the municipality in which the property is located. The share of such tax, as specified in the tax base sharing agreement, shall be remitted within 15 days after collection to the other municipality or municipalities on the basis of the terms of the agreement entered into pursuant to RSA 423-A:2.

423-A:5 Arbitration. Any disputes relative to the agreement shall not be the basis of the closure of any airport, airport operations, airport terminal facility or any transportation facility. Such disputes shall be arbitrated by the aviation users advisory board established under RSA 21-L:8, in accordance with RSA 541-A.

5 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted. Ordered to Third Reading.

RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, January 28, 1988 at 10:00 a.m.

Adopted.

Third Reading and Final Passage

SB 278, relative to aid to assisted persons.

SB 309-FN, enabling cities and towns to transfer revenues from the land use change tax to the local conservation commission.

SB 344-FN, relative to the consignment of artwork.

SB 317-FN, relative to master plans and their housing section.

SB 337-FN, adopting the uniform federal lien registration act.

SB 250, changing the reporting date for the task force to study support services for families with developmentally disabled children.

SB 259, relative to child custody.

SB 306-FN, relative to low-dose mammography screening.

SB 323-FN, relative to providing medical assistance to children who are disabled or victims of catastrophic illness.

SB 276-FN, establishing a panel to address the effectiveness of the delivery of services to children and their families.

SB 342, amending the certificate of need law.

SB 348, relative to licensing of health care facilities.

SB 260-FN, relative to detection of airborne radon in homes.

SB 284-FN-A, relative to exemption from tolls on the New Hampshire turnpike system.

SB 292-FN, establishing a study committee to examine the future air travel needs of New Hampshire and relative to the management of the Nashua Airport Authority.

SB 285-FN-A, limiting toll increases on the New Hampshire turnpike system.

SB 339-FN-A, relative to purchasing airports, establishing airport districts, and airport property tax base sharing agreements.

Roll Call for CACR 24 (requiring a 3/5th vote.)

CACR 24, relating to the right to counsel in criminal proceedings. Providing that the right of a defendant in a criminal proceeding to have an attorney appointed at the expense of the state if the defendant cannot afford an attorney be limited to cases where the defendant actually faces incarceration.

The following Senators voted yes:. Bond, Heath, Freese, Dupont, Chandler, Disnard, Roberge, White, Charbonneau, Podles, Johnson, Stephen, Bartlett, St. Jean, Torr, Delahunty, and Preston.

The following voted no:. Hounsell, Hough, Blaisdell, Pressly, Nelson, McLane and Krasker.

17 Yeas

7 Nays

CACR 24, relating to the right to counsel in criminal proceedings. Providing that the right of a defendant in a criminal proceeding to have an attorney appointed at the expense of the state if the defendant cannot afford an attorney be limited to cases where the defendant actually faces incarceration.

Adopted.

Senator Dupont moved to adjourn.

Adopted.

Adjournment.

Thursday, January 28, 1988

The Senate met at 10:00 a.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, amidst the sudden changes we face, just like the New England weather. Let us remember Job and all his troubles, yet he was able to overcome them - through his faith and trust. So, may we, by His example, learn to work out the right solution.

Amen

Senator Krasker led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

HOUSE MESSAGE

INTRODUCTION OF HOUSE BILLS

Senator Dupont offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 732-FN through 1168-FN shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 732-FN, relative to the workers' compensation special fund. (Insurance)

HB 741, relative to horsepower of motors on Spectacle Pond in the towns of Enfield and Grafton. (Development, Recreation and Environment)

HB 789-FN, relative to assessment of civil penalties under the workers' compensation law. (Insurance)

HB 848, relative to burials on private property. (Public Affairs)

HB 947-FN, relative to school system pupil registration information. (Education)

HB 954, relative to the boilers and pressure vessels law. (Executive Departments)

HB 968-FN, authorizing imposition of administrative fines by the water well board. (Development, Recreation and Environment)

HB 756, prohibiting harassment of police dogs or horses. (Judiciary)

HB 767, relative to the contracts made by nonprofit corporations. (Judiciary)

HB 806, relative to the price of wine. (Ways and Means)

HB 872-FN, regulating risk retention groups and purchasing groups. (Insurance)

HB 884, relative to payment of rent by tenants. (Public Affairs)

HB 904-FN, relative to the Vermont state income tax. (Judiciary)

HB 914, relative to interest due with a return or estimated taxes in the business profits tax and the interest and dividends tax. (Ways and Means)

HB 922-FN, relative to providing flags for use in school classrooms. (Education)

HB 931, prohibiting consumption of alcoholic beverages on ski slopes and ski lifts. (Development, Recreation and Environment)

HB 948, allowing a village district to be established for the purposes of transportation of people in the village district. (Transportation)

HB 1038-FN, relative to credit services organizations. (Banks)

HB 1063-FN, to revive the charter of Kappa Sigma House, Inc., and Jackson Ski Touring Foundation, Inc., nonprofit organizations. (Public Affairs)

HB 1168-FN, relative to voter registration and the United States Postal Service. (Executive Departments)

HOUSE CONCURS WITH AMENDMENT

HB 714-FN, relative to assessment of open space land and the adoption of rules by the commissioner of revenue administration for the purpose of RSA 79-A.

HOUSE REQUESTS CONCURRENCE WITH AMENDMENTS

SB 237-FN, relative to the controlled drug act. (see House Journal)

Senator Podles moved to concur.

Adopted.

SB 239-FN, relative to electronic privacy. (see House Journal)

Senator Podles moved to concur.

Adopted.

SB 238-FN, relative to bail reform. (see House Journal)

Senator Podles moved to concur.

Adopted.

Prayer was offered by the Rev. Fischer in memory of Christa McAuliffe.

Almighty Father, we thank you for the gift of thy servant, Christa McAuliffe, whose adventure to promote education from outer space was snuffed out. May her soul and the souls of all our faithful departed, rest in peace.

Amen.

COMMITTEE REPORTS

SB 351, relative to interstate banking and mutual savings banks. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: You have before you the committee amendment on SB 351. Just so that everyone is looking at the same amendment, it would be in the calendar that has on the front of it, that last calendar that you would have received for today, which would be dated January 27th and the 7th would be crossed out, which is actually calendar #9 and the amendment that you want would be on page #14. I am sure there is going to be considerable amount of debate on this bill and I'm sure I am probably going to be standing here for a half hour answering questions or responding.

Just briefly, I will run through and tell you exactly what this does and the reason why the banks committee made this decision to go ahead. We had before us a bill that had a national trigger in it to open up the state of New Hampshire to a national interstate action. Basically, the committee at this time, felt that that was premature on the committee's behalf. However, after sitting through half a day of testimony on the national trigger, it became apparent to the members of the committee that while we couldn't support a national trigger, we had created some problems with last year's legislation that we didn't intend to cause. Basically, what you have in front of you is to

the first part of the bill, is an amendment to last year's law that redefines the New England Bank holding company. What we have done is say that a bank which has the majority of its deposits in New Hampshire, is still able to participate in New Hampshire. The reason I think that we felt very strongly about this is, I don't think and I don't think any members of the Senate that supported interstate banking last year, had the feeling when they passed the bill that they would somehow make New Hampshire a less attractive place to do business in, by passing that bill. I use it as an example. We obviously are not an island, we have states on both sides of us that have mutual economic interest. If a Vermont Bank, for example, went across its border into New York and opened up one office in the State of New York, it then would become ineligible to participate in New Hampshire. We really didn't feel that at the time when we passed the law, that that was the intent of the law. It is very, very clear to me and I want everyone to be clear, that this in no way allows a New York bank to come into New Hampshire and buy in New Hampshire bank. Obviously, because that bank would not have the majority of its assets in New England. However, what it does allow and, I will be perfectly honest with you, if a New England bank buys a bank in New York and still maintains a majority of its deposits in New England, it can still participate in New Hampshire.

When we passed this bill and, I know this argument fell on some deaf ears, the intent was to allow for a more competitive situation in New Hampshire, to allow for the attraction of deposits in the State of New Hampshire and the attraction of capital in the State of New Hampshire and we did not accomplish that. That is the reason this is in front of you today.

The second part of the bill, which deals with mutual savings bank, comes about as a result of the Supreme Court opinion. I have part of that opinion if anyone would like the clarification as to why this portion of the bill is necessary. It basically allows for a mutual savings bank to continue operating in its present mode without worrying about outside influences coming in and substantially altering their mode of operation or causing a conversion to take place into a stock form. This has really been an interesting piece of legislation for me to have worked on. I had tremendous support from the banking commissioner and his organization. I guess, I really sincerely think that he has made all the resources available to me that I needed and the committee needed, at this point in time, to straighten out what we

feel was a problem with last years law. With that, I will end my speech on this bill and if anyone has any questions I would be glad to answer them.

SENATOR CHARBONNEAU: I rise in opposition to this bill. First of all, Tuesday morning I was called at 6:30 a.m. and said, I am sorry the hearings were cancelled for today. So, I assumed, which I should not have assumed that the exec on SB 351 was not going to be held. I found out through someone else, other than my chairman, that it was held.

Yesterday I received an amendment, read it and it said, that this would come into effect 60 days from the passing of the bill. Now we have another amendment that says passing immediately. Immediately, let's not kid ourselves. This is a national interstate banking bill. All the fancy languages won't hide the fact that this is a back door attempt to pass a national interstate bill. Read the amendment for what it is and you will see that this is a national interstate language in disguise. Read it and you will see that it is cleverly designed to read like a technical amendment which doesn't change much, but it is a national interstate banking loophole as wide as a four lane highway. This cute little amendment, that is as long as the New England bank subsidies and in the majority of its deposits in New England, it can be bought by a New York or California bank. When a New Hampshire bank is bought buy a Boston bank, the New Hampshire bank becomes the subsidiary bank holding company of the Boston bank. Now, if the Boston bank is bought by a bank outside the New England, say Citicorp, then both the New Hampshire bank and the Boston bank become subsidiary holding companies of Citicorp. Now as long as a majority of the deposits of the two subsidiaries are in New England, then Citicorp is a national bank and owned a New Hampshire bank.

Here is another way it will work. Fleet Financial Corp of Rhode Island has already merged with Northstar of New York. It is now a New England holding company, subsidiary of Northstar, with the majority of its deposits in New England. Under this bill, Fleet would be allowed to start a new bank in New Hampshire because both its New Hampshire bank and Fleet, itself a holding company subsidiary of Northstar, would have the majority of their supplies in New England.

Why isn't it working? Why are they so quick to rush to a national interstate law without giving the regional concept time to work? What about those opinion polls last year which said the people of

New Hampshire supported regional interstate, but oppose national interstate? Did anyone survey the people to see if they changed their minds? If regional interstate was such a good thing last year, why are the sponsors so quick to throw it away this year and substitute with a back door special interest national interstate bill?

I may not like regional interstate banking law, but I am willing to give it a chance, to work for the benefit of the New Hampshire people and our state banking system. I'm not going to support a back door, devious attempt to benefit a select group of New England banks and their major stockholders, at the expense of the New Hampshire citizens of its banking system. This bill is tailor made to benefit a small select group of New England banks, and their big stock holders, because our regional interstate law will still say that only New England banks can buy New Hampshire banks. But, it will then allow these in New England banks to be bought by banks outside of New England.

The Senate passed this bill and it eventually became a law. One of the reasons it did become law is because the sponsors said it was regional bill and they produced opinion polls which said, the New Hampshire people would support regional interstate banking. The people didn't want interstate banking, the regional interstate law has only been in place for six months and the sponsors are now telling us it doesn't work.

I'm on administrative rules, Fleet wanted to come in to Nashua and put in mechanical bank, not even a people's bank, a mechanical bank. The rule was put in by Commissioner Roberge that if you purchased or if you were negotiating with a bank outside of New England, that the application would not be accepted. Fleet now could purchase or could start up the mechanical bank, plus purchase another bank, and therefor what would happen is they could take our money from our State and put it up into New York. The people of New Hampshire, I think, that they wanted us to represent them, not just a small special interest group.

We are a citizens' legislature. We are supposed to be working for these people. We are supposed to be making laws to help these people. What are we doing? We have to make a decision; I know that its close right now because the lobbyists are working and so forth. I know I haven't got a chance. Most likely, most of you are not listening and saying here she goes, but I am telling you right now you have to, tomorrow morning, look in the mirror, you have to decide

whether you have done the right thing or not. I know I will be able to tomorrow; let's hope that you will be. Thank you.

SENATOR STEPHEN: I am against the bill and possibly not totally against the amendment. I think if the amendment of this bill was so important, it should have had a separate legislation. Interstate banking is nothing positive to the bank customer. Our economy has been booming as it has been last year when we passed the regional interstate banking. The regional banking bill we passed in our last session is not doing the job and we all know it. So, what is really the hurry in rushing us through. Claiming that people are for this is totally hypocrisy. The people are not speaking on this bill. We haven't had the chance yet to hear the pro's and the con's. So all I am saying is why don't we stop and listen and try to hear this out before rushing this bill. Thank you.

SENATOR JOHNSON: I rise in opposition to SB 351. Senator Charbonneau said it really well. This is really a national interstate banking bill brought in under the guise of regional banking. Let me refer you to the title of SB 351, it reads, an act relative to interstate banking and mutual savings banks. Let me now refer you to the amendment on page 14, where the title has been amended to read, relative to regional banking and mutual savings banks. Certainly we are all more comfortable with the concept of a regional banking bill. We are all more comfortable with New England Regional Banking bill, and that's what prevailed in this body just a few short months ago. Now, we really have an attempt to open the door for a national interstate banking bill.

I happened to see a movie last night and I would characterize this bill, SB 351, as the Gordon Geckgo bill. If you haven't seen the movie "Wall Street", let me explain that characterization. Gordon Geckgo was the character played by Michael Douglas in the movie "Wall Street". Gordon Geckgo made a stirring speech during that movie, during which he extolled the virtues of greed. This, in my judgement, is a Gordon Geckgo bill. Let me review a couple of givens. It was only a few days ago that the press reported that United States banks are failing at a rate higher than ever before. Another given, one which we can all be proud of, and that is that the New Hampshire economy is #1 in the Nation. Another given is that New Hampshire banks are among the strongest in the nation. The strength of New Hampshire banks, in general, and mutual savings banks, in particular, is a reflection of the depositors. The depositors, the hard working people of New Hampshire who make their money the old

fashioned way, they earn it. This body should protect those depositors in New Hampshire and send this bill inexpedient to legislate.

SENATOR WHITE: Senator Johnson, if this amendment were approved what would happen to the, for instance, the problem that happened over in Portsmouth before, when the trustees and the incorporators went into an agreement to have their bank bought out?

SENATOR JOHNSON: Senator White, it would be my understanding that the judgement of the board of trustees or the judgement of the incorporator, whichever happens to be, would be a final judgement, that there would be no reference to the depositors and what their interest might be.

SENATOR WHITE: Would you, then, say that probably this is an anti-consumer bill?

SENATOR JOHNSON: It certainly has to do with the depositors of mutual savings bank and it takes away the protection that they really deserve because it is their money in that bank.

SENATOR HOUGH: I wish to rise briefly to support the bill and to support the amendment of the Banking committee. I wish to confine my remarks simply to state that I appreciate the very hard work and long hours of research and study and objectivity that Chairman Dupont and the members of his committee put in to making an amendment to this bill, which frankly does not do all that I would personally want to do, but certainly reaffirms the public policy position of this Senate and this legislature, as expressed a year ago. For that reason, I wish to compliment a committee of this Senate that took a very difficult issue and handled it in a highly professional manner. For those reasons I compliment Chairman Dupont and the members of his committee and would urge you to vote for the amendment to this bill.

SENATOR WHITE: Senator Hough, you, in your testimony, indicated that the committee had worked long and hard to come up with the amendment that is before us. I sit on the rules committee and we had an awful lot of problems with implementing the rules, and yet in this amendment, on page 14, the effective date is upon passage. I wonder what the implications are going to be on the administrative rules?

SENATOR HOUGH: Senator White, I purposely confined my remarks to expressing my appreciation to a Chairman and a committee that, in my opinion, represents the best traditions in the New

Hampshire Senate, in taking a bill and working on it to a positive conclusion outside of the emotions. They did an exemplary job and they remained objective at all times. Those are the points that I confine my remarks to and that is all I was saying in my remarks in support of the bill and the amendment.

SENATOR WHITE: Senator Dupont, the bill's now effective date is upon passage. We had quite a bit of difficulty in administrative rules because of the dates that they had in regards to when what would take effect. This, as I see it, would really complicate the issue.

SENATOR DUPONT: I relied on the judgement of that banking commissioner for that date, as he is the individual that's responsible for the enforcement of this law, I felt I could rely on his judgement, as we are paying for his judgement.

SENATOR PRESSLY: I rise in opposition to the passage of this bill. I believe that the State of New Hampshire enjoys an enviable position. One picks up the newspaper almost every day and reads of a bank that has closed across the nation. If not every day, at least every week. The statistics of the percentage of bank closings is amazing. The State of New Hampshire has not had any event like that in any recent history. We have just come through a time of national deregulation of the banking industry. The banking industry to me is a little bit different from manufacturing shoes or from a loaf of bread. Money and how it is handled is critical to all aspects of our life. During this time of change, we have also gone into the electronic era and, as we all know, the banking industry is changing very rapidly before our eyes. I feel that the State of New Hampshire, being in the position that it is, of course it is enviable and should another bank become involved with our banks, our interest will not be their predominant interest. After six years, the state legislature did pass an interstate banking law. The proponents of that idea were successful. We did, in fact, give them what they wanted. We have not had much time at all to let that work itself out. I think those of us who were opposed to that idea, accepted that it was passed and we were hopeful that it would work out since it has passed. Now that we have something new coming in, combining ideas that we know have been debated and debated for years, the timing is inappropriate. I think particularly because of the questions of the amendment and having some knowledge in just how this is actually happened in practice, that idea and if there should be a change, deserves special legislation, deserves very good open hearings and we need to hear from the people who have been involved with the banks that that will

effect. Therefore, I think that this is not the time to do this, that if these changes are that important, they have more time to work out what we have already passed and another day if it doesn't work after another period of time.

SENATOR NELSON: Senator Dupont, I would just like to get a better handle on this situation, having supported the interstate banking the last time around. During the hearing, not on the amendment but on the bill, was there a large crowd there?

SENATOR DUPONT: Senator, the hearing room was packed, yes.

SENATOR NELSON: At what point was the amendment presented to the group in the room?

SENATOR DUPONT: The amendment was discussed at two different occasions. Once at the meeting that was called after a previous session, and then Tuesday morning we had an executive session at 11:30 which was not cancelled, nobody was called and told that it was cancelled, and at approximately at 2:00 p.m. on Tuesday afternoon, every member of the Senate Banks committee had, on their desk, a copy of the amendment. It was done in a public forum. I was very careful, everybody, always on these particular issues, says we railroad people through. The members of the committee were given the opportunity to see this amendment before it was printed for the calendar and I received no comments from anyone relative to this amendment.

SENATOR NELSON: In that we do study things that come before us, for example foundation aid, I was curious, if you think that seeing the original bill has only been in place five months, that maybe we should have a little more study in consideration for this bill?

SENATOR DUPONT: Senator, that is my logic for saying that we don't need a national trigger. However, I don't think I our intent is to pass legislation in this body that has no effect and waste the money to put it on the books and it is not going to do anything. I think it is the responsibility of the committees that when they pass legislation and they see problems with it to try and cure the problems. I can assure you that that was the intent of this legislation that is in front of you.

SENATOR FREESE: I was prime sponsor of last year's regional banking bill and it's quite clear to me that the bill isn't working, because of some oversights that we were not conscious of, at the

time that last year's bill was drafted and amended. All I want to say today is that if you voted for regional banking last year and you would like to see it work, this amendment is an absolute necessity in order for regional banking to go forward and do what it was supposed to do and you voted for it last year. If you voted for it last year, you should support it this year. Thank you.

SENATOR STEPHEN: Senator Freese, you just said that the regional banking bill was not working this last year. So, don't you think we should give it, possibly, the chance to let people look into it and understand it? I recall a few years ago, Delaware and North, we waited for months and months to get a review and get the outcome of that and work for the State of New Hampshire. If this is so important for people, shouldn't we give it time to review it instead of rushing it, as we did last year, and maybe not working at all again.

SENATOR FREESE: Senator Stephen, I think that if you make a mistake and don't put everything into the bill that is needed, to make it work, we've lost a part out of it, the automobile won't go. We have to put that part in there so that the bill will run. The only way you are going to get regional banking and the only way you are going to allow it to work, is to amend it as it is being proposed today.

SENATOR STEPHEN: I understand, but I have heard you and other people in this body at times say, for instance, let's study it, let's look it over, if it ain't broke don't fix it. Maybe this is so important to people that we shouldn't just ram it down their throats and study this a little more. What is wrong with keeping it in for another session, we are coming back next January?

SENATOR FREESE: Well, you said if it ain't broke, don't fix it, but it is broke, so we ought to fix it.

SENATOR JOHNSON: Senator Freese, I really didn't intend to say anything more here, but I have to pick up on what you said there. You use the term oversight, and plural oversights and use a term mistakes referring to last year's interstate banking bill. My question to you, Senator Freese, is, can I really believe that it's oversights and mistakes of that bill that we passed last year, that bill that had the most intensive scrutiny, the most intensive lobbying, it went on and on and on, and now you are suggesting that that bill had oversights in the State Senate, is that really why we now need this bill?

SENATOR FREESE: Senator Johnson, I know your remarks are well intentioned, I know the Senators who spoke this morning, their remarks are well intentioned. I know you believe that you shouldn't

support this bill, but I really can't believe either that if we do leave something out of a bill, that hinders the bill from working the way it was intended, then it should be fixed.

SENATOR ST. JEAN: Senator Freese, isn't it true that we as a legislature have become regulators on the banking industry? As a regulator when things don't work the way they are intended to work, you have to take another look at it? Also, the reason why we did what we did with the amendment was to allow what we passed last session to work?

SENATOR FREESE: You are exactly right.

SENATOR DUPONT: Senator Charbonneau, honestly I won't have any problem looking in the mirror tomorrow morning, because I did my homework on this one and, if you had done yours you would have the facts straight, and you would recognize that some of the information that you presented was not factual and I won't go any farther than that.

Senator White, I have the informations from the banking commissioner on Fleet and Northstar and, if that is your concern I can put that to rest because it does not and will not have any affect on Fleet's ability to enter into the New Hampshire market.

I think what is important here is that you recognize the fact that the committee did do their homework and those members that had a desire to participate, participated, and the ones that went in with closed minds and no matter what we did I can assure you that the votes wouldn't have changed a bit. There probably today is the votes in this body to pass a national trigger and, as the chairman of banking committee maybe I should have brought a national trigger in. I sincerely thought that, at this point in time, I don't have the information to say to you today that a national trigger is the way we ought to go, even though I favor it. At this point in time, what you have in front of you is the solution to a problem and, I don't think, in fairness to this body and to my committee, that we can stand here and turn our backs to a problem that needs to be resolved.

Another comment that I heard, is that this bill somehow or other makes the Portsmouth situation worse. In fact, the truth is, is that the language that has to do with mutual banks in this bill is to prevent another Portsmouth from happening. Is to prevent the sale of a mutual bank without recognizing the rights of it's depositors. I caution the Senate and, I say this sincerely, I don't mind debating any

bill on this floor and I don't mind taking the heat, but you have got to get your facts straight and I really get concerned. I don't think I have denied anyone the ability to come up and ask me a question and yet I have had people say, on this floor today, say statements that are untrue, I don't know where their information comes from and, whether you are for the bill or against the bill, I will share my information with you, but what I have a concern about is we sit here and we are trying to debate a very very important piece of legislation and things are getting thrown around this chamber that have a serious consequence and it is to the detriment of both sides to be working with information that is inaccurate. If anyone needs additional information at this point in time, and I sincerely say that we have tried to do our homework on this. Those two facts are important and they ought to be re-mentioned, this does not directly impact the Fleet/Northstar situation. The numbers will not allow that bank to come into New Hampshire. The second portion of the bill, the mutual portion, does the opposite of what was mentioned in this chamber. It is protection for the mutual banks in this state, it does not open them up to more exposure. As I mentioned, for those that were listening, the Supreme Court said that if the legislature desires more protection for those banks, it is appropriate for it to act. I think what we have tried to do in the bill is address that situation in a positive manner, not one that puts these banks more at jeopardy. So with that, I will end my testimony and I apologize for having to take the floor a second time but, I thought it important enough that this body to have its facts straight before it votes on this bill.

AMENDMENT TO SB 351

Amend the title of the bill by replacing it with the following:

AN ACT

relative to regional banking and
mutual savings banks.

Amend the bill by replacing all after the enacting clause with the following:

1 Definition; Out-of-State New England Bank Holding Company. RSA 384:44, X(b) is repealed and reenacted to read as follows:

(b) Has in New England the majority of the total deposits held by all of the banking offices of all of its banking subsidiaries, as shown in the most recent reports of condition or similar reports filed by the bank holding company subsidiaries with state or federal regulatory authorities;

2 New England Regional Authorization of Affiliation. Amend RSA 384:45 to read as follows:

384:45 New England Regional Authorization of Affiliation. This subdivision authorizes the establishment of new New Hampshire banks and the acquisition of New Hampshire banks or bank holding companies by an out-of-state New England bank or New England bank holding company if upon the issuance of a certificate to affiliate by the board of trust company incorporation the out-of-state New England bank or New England bank holding company is in compliance with the requirements of this subdivision.

3 Application for Certificate; Statement of Proof. RSA 384:48, I(h) is repealed and reenacted to read as follows:

(h) A statement of proof by the affiliating bank or bank holding company that it is in compliance with the requirements of RSA 384:44, IX and X, as applicable; and an undertaking by the affiliating bank or bank holding company that it will be in compliance with such requirements at the time of the issuance of a certificate to affiliate by the board of trust company incorporation.

4 New Section; Public Policy on Rejection of Proposals for Conversions of Mutual Savings Banks. Amend RSA 386-A by inserting after section 7 the following new section:

386-A:7-a Rejection of Proposals for Conversions. Notwithstanding any other law to the contrary, it shall be the public policy of this state in its exercise of police power over the regulation of banking to allow a trustee, board of trustees, incorporator or incorporators of a mutual savings bank to deny any proposal by any person or other entity not acting on behalf of the board of trustees without such denial being construed as a failure by the trustee, board of trustees, incorporator or incorporators to perform any legal obligation, either express or implied, if acceptance of such petition would result in either of the following:

I. The cessation of the bank's standing as a mutual savings bank;
or

II. The substantial alteration of a plan of conversion submitted for consideration by the board of trust company incorporation pursuant to RSA 386:10, II, or to the bank commissioner pursuant to RSA 394-A:10.

5 Dividends; Converting Form. Amend RSA 386:10, I to read as follows:

I. After providing for the requirements of the guaranty fund, savings banks and savings departments of trust companies may pay dividends from their net income, but not in excess of 3 1/2 percent per year, unless the total value of the assets of such savings bank or savings department, as determined by the commissioner, shall ex-

ceed the amount due the depositors by at least 5 percent. No board of trustees of a savings bank is required to pay dividends on net income as permitted in this paragraph nor shall any such board or any of its trustees be liable to any depositor of the savings bank for not paying such dividends.

6 Effective Date. This act shall take effect upon its passage.

Roll Call requested by Senator Johnson.

Seconded by Senator Stephen.

The following Senators voted yes: Bond, Heath, Freese, Hough, Dupont, Chandler, Disnard, Blaisdell, McLane, St. Jean, Torr, Delahunty and Krasker.

The following voted no: Hounsell, Roberge, White, Pressly, Nelson, Charbonneau, Podles, Johnson and Stephen.

Senators Bartlett and Preston voted Rule 42.

13 Yeas

9 Nays

2 Rule 42

Amendment adopted. Ordered to Third Reading.

SB 302-FN, relative to fireworks. Ought to Pass with Amendment. Senator Freese for the Committee.

SENATOR FREESE: SB 302-FN, relative to fireworks; is a bill the committee spent quite a lot of time on and others, particularly the sponsor of the bill, spent a lot of time on an amendment that was necessary to make the bill less ambiguous.

I would like to just list a few things that are in the bill so that you can better understand what you are voting for. The legislation will strengthen and clarify regulatory authority over the sale and purchase of fireworks. The sale of any type of fireworks, class B and C, will continue to be governed by the permitting requirement which will be administered at the local level. The legislation clarifies the authority of the state police to promulgate regulations which will automatically become uniform requirements of all local permitting for the sale, purchase and display of class B fireworks. Under the new legislation, no one will be allowed to display class B fireworks, unless they have demonstrated competence to display such fireworks and been issued a certificate of competency by the state police. The certificate will be required before a permit for display, class B, and can be issued by any city or town. The legislation tightens the defini-

tion of sale to reinforce the prohibition on possession of fireworks by those under age 18. No one may sell or give fireworks to another without a permit and, only persons over age 18 may buy or possess fireworks. The role of the local fire chiefs, in determining when fireworks can be displayed, is extended under this bill. In summary this legislation requires a local permit for selling, buying and possessing fireworks. It clarifies the ambiguities and confusing language of the legislation passed last session. It has the support of the safety department, department of safety, the state fire marshal and the industry. I hope you will support the committee support.

AMENDMENT TO SB 302-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Storage of Class B Special Fireworks; Fee. Amend RSA 158:9-c, III-a to read as follows:

III-a. [The fee for a class B special fireworks license issued pursuant to RSA 158:9-f shall be \$5. In addition,] There shall be a storage facility fee for a storage permit issued by the director of state police for the storage of class B special fireworks as defined in 49 CFR 173.88 (d), packaged or unpackaged. This fee shall be the same as that provided under paragraph II(a) through [(c)] (e).

2 Fees for Competency Examinations for Licenses to Purchase, Store, and Transport Explosives and Fireworks. Amend RSA 158:9-c, VI to read as follows:

VI. There shall be a fee of \$5 for any competency examination or renewal certificate given by the director of state police for any [license issued] examination or certificate given under this subdivision.

3 Rules; Class B Special Fireworks. RSA 158:9-f, I(b) is repealed and reenacted to read as follows:

(b) The procedures for the sale, storage, handling, transportation, inspection, administration, permit fees, and use of class B special fireworks to be followed by the licensing board of any city or town, or if a duly constituted licensing board does not exist, the chief of police of a city or town, if any, or the governing board of a town, city, or village district, when issuing permits for the sale or display of class B special fireworks pursuant to RSA 160-A. Rules adopted pursuant to this subparagraph may include a requirement that no person may be issued a display permit for class B special fireworks unless he has previously demonstrated his competence to handle such displays and has been issued a certificate of competency by the division of state police.

4 New Subparagraph; Rules; Insurance Purchase. Amend RSA 158:9-f, I by inserting after subparagraph (b) the following new subparagraph:

(c) The purchase of insurance by commercial entities, relative to the sale, storage, handling, transportation, inspection, administration and use of class B special fireworks.

5 New Paragraphs; Definitions of Display and Sale. Amend RSA 160-A:1 by inserting after paragraph III the following new paragraphs:

IV. "Display" shall mean the use, explosion, activation, ignition, discharge, firing or any other activity which is intended or which does cause a firework to do what it was manufactured to do.

V. "Sale" or "sell" shall mean to sell, give, or transfer to another, with or without consideration.

6 Permits for Fireworks. RSA 160-A:2 is repealed and reenacted to read as follows:

160-A:2 Permits for Fireworks.

I. It shall be illegal for any person, firm, partnership, or corporation to offer for sale, expose for sale, or sell at retail, any fireworks without a permit for such sale obtained in accordance with paragraph IV of this section.

II. It shall be illegal for any person to purchase, possess, or display any class B special fireworks without a display permit obtained in accordance with paragraph IV of this section. It shall be illegal for any person to purchase, possess, or display any class C common fireworks without a permit issued pursuant to paragraph III of this section.

III. The fire chief or police chief of a city or town shall issue permits for the purchase, possession, or display of class C common fireworks within the borders of the city or town.

IV. The licensing board of any city or town, or if a duly constituted licensing board does not exist, the chief of police of a city or town, if any, or the governing board of a town, city or village district, may grant permits for:

(a) The sale of fireworks by any person which, at the time such sale permit is issued, is subject to and in full compliance with Title 18, United States Code, and the regulations promulgated thereunder, governing class B special fireworks or is a class 01 licensee under chapter 44 of Title 18, United States Code in accordance with the provisions of Title 1, GCA of 1968 and the regulations issued thereunder (27 CFR 178). The applicant for a sale permit under this subparagraph shall have the burden of proving compliance with such federal regulations. Sale permits under this subparagraph shall be

valid for one year from the date of issue or until the permittee is no longer governed by or in compliance with the federal regulations. No such sale may be made to any person under 18 years of age.

(b) The purchase or display of class B special fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals.

V. Every display permitted under paragraph IV shall be handled by a competent operator at least 18 years of age to be approved by the chief officer of the police or fire department, the board of selectmen, or the commissioners of the city, town, or village district in which the display is to be held, and shall be of such a character, and so located, and displayed, as in the opinion of the chief of the fire department or fire ward, after proper inspection, shall not be hazardous to property or endanger any person or persons.

VI. Applicants for display permits for class B special fireworks shall meet any requirements as may be established by rule by the director of the division of state police, pursuant to RSA 158:9-f, and shall be consistent with the provisions of this chapter. In addition, such applications shall be made in writing at least 15 days in advance of the date of the display. No display permit granted under this section shall be transferable, and each display permit shall be valid for only one display to be held within 15 days of the date such permit is granted. If, in the opinion of the chief of the fire department, conditions deteriorate during the 15-day period of effectiveness of the display permit so that a fire hazard exists, he may revoke the permit.

VII. It shall be illegal for any person under the age of 18 years to possess any fireworks.

7 Exceptions. Amend RSA 160-A:3, I and II to read as follows:

I. Any resident wholesaler, dealer, or jobber from selling at wholesale any fireworks, which [are] is not prohibited by this chapter.

II. The sale of any kind of fireworks, which are to be [shipped] transported directly out of this state.

8 New Paragraph; Penalties. Amend RSA 160-A:5 by inserting after paragraph II the following new paragraph:

III. Any person under the age of 18 years who possesses any fireworks shall be guilty of a violation.

9 Effective Date Changed. Notwithstanding 1987, 323:6, 1987, 323 shall take effect upon the passage of this act.

10 Effective Date of Rules. Rules adopted pursuant to sections 2 and 3 of this act shall not take effect before October 1, 1988.

11 Effective Date.

I. Section 9 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect at 12:01 a.m. on the date of its passage.

Amendment adopted. Ordered to Third Reading.

SB 271-FN, establishing a study committee to examine the feasibility of relocating state agencies in Concord. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: You have in front of you a bill that deals with the rental of space for state offices. At this point in time, I would urge the defeat of this amendment because it is correct in the passage of the original bill, there is an error in the date in the amendment and the amendment is incorrect.

Amendment failed.

Senator Dupont moved Ought to Pass for the Committee Report.

Adopted. Ordered to Third Reading.

SB 349-FN-A, to provide 2 additional field staff and additional equipment to the division of air resources for statewide air quality monitoring and making an appropriation therefor. Ought to Pass. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: I heard testimony from Senator Disnard, chairman of the study committee, and voted unanimously to support the recommendation of ought to pass. This bill was passed by the Senate in the last legislative session and lost in the House.

Adopted. Ordered to Third Reading.

SB 341-FN-A, establishing a position to coordinate child day care services in the office of the commissioner of health and human services and making an appropriation therefor. Ought to Pass. Senator Torr for the Committee.

SENATOR TORR: SB 341 appropriates \$40,509 for the position of a coordinator, the salary, benefits, current expenses and equipment. There was one question brought forward in the committee relative to current expenses. That figure was derived from using 20% of the base of the salary to give you the current expenses. I would move for adoption.

Adopted. Ordered to Third Reading.

SB 328-FN, relative to sexual misconduct by psychotherapists. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: Basically, we heard some testimony on this bill from some people that were present when we discussed this bill. They feel that the appropriation in there may not be necessary to affect what they are trying to do and, basically, is the notification procedure for what the board's actions are going to be for someone that violates this provision of the law. That is all it does.

Adopted. Ordered to Third Reading.

SB 304-FN, relative to the disposition of fines and forfeitures collected for violations of municipal ordinances, codes, and regulations. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: Senate Finance took a look at this. There is some dispute as to the size of the numbers in the fiscal note. The committee felt that the fiscal note was in error, in fact the dollars involved were considerably less. So, because of that we bring it back to you with an ought to pass recommendation and feel the bill has strong merit, both financial and in policy.

SENATOR NELSON: Senator Dupont, could you just give me a concrete example of what happens in a situation like this?

SENATOR DUPONT: What basically would happen is that for a violation of a municipal ordinance in the housing ordinance is one that is used most frequently to describe the impact of this bill. If it gets taken to court and a fine, of say \$100 dollars a day, is levied or whatever the fine ends up being for the violation, the court will deduct its administrative cost, the cost for processing that case through court and then the balance of the monies would be returned to the municipality, Nashua for example. So, this theoretically should put some money back in the bridge fund in Nashua.

Adopted. Ordered to Third Reading.

SB 297-FN-A, establishing adult in-home care services for certain persons and making an appropriation therefor. Ought to Pass. Senator Podles for the Committee.

SENATOR PODLES: SB 297-FN establishes an adult in home care services which are humane and they are cost effective for certain persons. It makes an appropriation of \$510,000. The committee recommends ought to pass.

Adopted. Ordered to Third Reading.

SB 247-FN-A, relative to phase II of restoration of the old state house and making an appropriation therefor. Ought to Pass. Senator Torr for the Committee.

SENATOR TORR: SB 247-FN-A appropriates 1.75 million dollars to restore the original state house and this includes from the contract drawings through final construction and the bill encourages private contributions.

Adopted. Ordered to Third Reading.

SB 242-FN, making an appropriation for the sewage treatment facilities for the towns of Exeter and Monroe. Ought to Pass. Senator Torr for the Committee.

SENATOR TORR: SB 242-FN authorizes the appropriation of 4.4 million dollars for a sewage treatment facility that is within the towns of Exeter and Monroe. This is only a loan and it authorizes the loan up to 80% of the cost of those facilities and it would be self liquidating.

Adopted. Ordered to Third Reading.

SB 310-FN-A, relative to the purchase and distribution of breathalyzer machines by the department of safety and making an appropriation therefor. Ought to Pass with Amendment. Senator Johnson for the Committee.

SENATOR BLAISDELL: We had a lengthy hearing in Senate Finance on SB 310. A lot of people showed up for this particular hearing and Senator Johnson will remember this, he did an excellent job bringing his people in. I am going to let Senator Johnson get up and report it out.

SENATOR JOHNSON: Senator Blaisdell, thank you very much, I appreciate that. SB 310-FN-A reflects an urgent need to replace the aging breath analyzing equipment now in the field. There is also a need to provide machines to important municipalities, which do not now have those machines. The bill also establishes a permanent advisory committee to review the machines that would be in use in this state and to establish priorities for the distribution of the machines in question. This bill was supported by the Department of Safety, the New Hampshire Highway Safety coordinator, the Director of

Public Health, the Police Chiefs Association, the Patrolmen's Association and virtually everybody that has an interest in providing the where-with-all to our law enforcement community to carry out this state's war against the drunken driver on New Hampshire Highways.

SENATOR STEPHEN: I would like to state that I am in favor of this bill. This is the backbone to the entire law enforcement community. It is absolutely necessary that we provide our police people with state-of-the-art equipment to keep the highways free of the drunk drivers.

AMENDMENT TO SB 310-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the purchase and distribution of breathalyzer machines and making appropriations therefor.

Amend the bill by replacing all after the enacting clause with the following:

1 Appropriation; Department of Safety. The sum of \$384,000 is hereby appropriated to the department of safety for the fiscal year ending June 30, 1989, for the purpose of purchasing breathalyzer machines for the testing of blood alcohol content. The sum appropriated shall be non-lapsing and in addition to any other sums appropriated to the department of safety for the biennium. The sum appropriated shall be charged to the highway fund.

2 Appropriation; Police Standards and Training Council. The sum of \$120,000 is hereby appropriated to the police standards and training council for the fiscal year ending June 30, 1989, for the purpose of purchasing breathalyzer machines for the testing of blood alcohol content for use in training programs. The sum appropriated shall be non-lapsing and in addition to any other sums appropriated to the police standards and training council for the biennium. The sum appropriated shall be charged to the penalty assessment fund.

3 Exemption from State Purchasing Requirements. The department of safety and the police standards and training council are hereby exempted from the requirements of RSA 21-I for the purpose of purchasing breathalyzer machines pursuant to sections 1 and 2 of this act.

4 Advisory Committee on Breathalyzer Machine Distribution Established. Amend RSA by inserting after RSA 106-F the following new chapter:

CHAPTER 106-G
ADVISORY COMMITTEE ON BREATHALYZERS

106-G:1 Committee Established. The advisory committee on breathalyzers is hereby established. The committee shall establish priorities and guidelines for the distribution by the department of safety to municipal police departments of breathalyzer machines to test blood alcohol content. The committee shall periodically review the breathalyzer machines currently in use in this state and make recommendations to the commissioner of safety on the adequacy of the machines currently in use and the needs of the state and municipalities for new machines and technology. The committee shall consist of the following members:

- I. The commissioner of safety or his designee.
- II. The director of the division of public health services, department of health and human services, or his designee.
- III. The coordinator of the New Hampshire highway safety agency or his designee.
- IV. One member of the New Hampshire Police Chiefs' Association, appointed by the governor.
- V. One public member with a background showing concern for driving while intoxicated issues, appointed by the governor.

106-G:2 Terms. The terms of the advisory committee members designated in RSA 106-G:1, I, II, and III shall be coterminous with their office. The remaining members shall be appointed to terms of 3 years.

5 Effective Date. This act shall take effect July 1, 1988.

Amendment adopted. Ordered to Third Reading.

SB 347-FN-A, increasing rates for shared homes and making an appropriation therefor. Ought to Pass with Amendment. Senator St. Jean for the Committee.

SENATOR ST. JEAN: SB 347-FN we heard in Senate Finance last session. The funding for this particular piece of legislation fell out over in the House side. We went from a rate of 560 up to 700 dollars which we thought was about right for this piece of legislation and we urge passage.

SENATOR WHITE: Senator St. Jean, what is the probable appropriation on this bill?

SENATOR ST. JEAN: \$1.1 million.

SENATOR WHITE: When was the last time we gave them an increase?

SENATOR ST. JEAN: Four years ago. It would have been last session, Senator, but as I said, the funding for this legislation fell out over in the House appropriations committee.

AMENDMENT TO SB 347-FN-A

Amend the bill by replacing all after the enacting clause with the following:

1 Supplemental Appropriation. The following sums are hereby appropriated for the fiscal years ending June 30, 1988, and June 30, 1989, to the division of human services, department of health and human services, for the purpose of increasing the standard of need under RSA 167:7, I-a, for residents of shared homes. This appropriation is in addition to any other funds appropriated to the division of human services and shall be nonlapsing:

<i>Estimated source of funds for standard of need</i>	<i>Fiscal Year 1988</i>	<i>Fiscal Year 1989</i>
Federal funds	\$67,342	\$134,685
General funds	231,473	462,945
Other funds	164,130	328,260
Total	<u>\$462,945</u>	<u>\$925,890</u>

The governor is authorized to draw his warrant for said sums out of any money in the treasury not otherwise appropriated or from the appropriate funds.

2 Implementation of New Rate Structure. The division of human services, department of health and human services shall implement the new rate structure for shared homes which incorporates medicaid components not later than July 1, 1988. In the event that the division is unable to implement such rate structure by July 1, 1988, it shall seek approval from the fiscal committee established under RSA 14:30-a and the governor and council to continue to use its current rate structure for shared homes.

3 Effective Date. This act shall take effect upon its passage.

Amendment adopted. Ordered to Third Reading.

SB 326-FN-A, establishing a New Hampshire rivers management and protection program and making an appropriation therefor. Ought to Pass with Amendment. Senator McLane for the Committee.

SENATOR MCLANE: The rivers bill has flowed up again from Senate Finance, with very little change, there still is the \$1 appropriation in it. At the request of Senator Chandler, we've added the Piscataquog and the Nashua River, at the request of the Nashua Senators and, at the request of Senator St. Jean we have added a clarification which states that the Manchester water works would not be affected by the provisions of the bill, as we had assumed it would not be.

SENATOR BOND: Math is not my strong suit but I have reason to believe that this isn't the time for a drawn out debate on SB 326. You understand the vehemence with which I object to this bill. It was the decision of this body that it should go forward. I am not going to say anymore about it now, I just hope that you understand and I hope that the message has gone to those who drew this bill, that the concerns of a section of this state which are impacted as heavily as this one impacts my district should have some participation in the development of legislation.

SENATOR DUPONT: I can add, too, and I am reasonably sure that this bill is obviously going to pass the Senate today. As a result of that, I think there is a couple of concerns that I am going to bring to the Senate, just to be aware and if it affects the debate, then fine; if it doesn't, then I would hope the sponsors would go onto the House and correct it. One is with the advisory committee. We spent some time yesterday in discussing makeup of advisory committees and we are creating an advisory committee that really gives the legislature no responsibility. The advisory committee actually has greater power than is allowed in for statute at the present time. So, those are some things that need to be taken a look at.

The second thing, you know we stand up here and we debate property rights and I had an attorney that looked at this bill tell me that this is going to be the best thing that has happened to the legal profession in the state of New Hampshire, because it allows the confiscation of property and property rights without just compensation. It provides so little in the way of definition of the specific sections of the bill that you really, really are opening yourself wide open and I just hope that in this body's wisdom, as it passes this bill, that it

recognizes the fact that when it goes over to the House it is going to need a tremendous amount of work and I will end with that.

SENATOR MCLANE: Senator Dupont, I would hope that the attorney that looked at the bill was looking at the amended version. I want to make very clear that indifference to the first objections that Senator Bond had, that we did take out that section that dealt with any of the river banks. Literally what this bill does now is, establish a rivers coordinator and establish a policy which says that the State of New Hampshire cares about its rivers and wishes to keep the water quality in those rivers free flowing and clean. That is just about all it does at this point. It really just says that New Hampshire cares about its rivers. It has, in the amended version, very little power, if any, certainly to affect property rights along the river banks and I would like to make that very clear.

SENATOR DUPONT: In response to your question, the latest version was looked at and, I think obviously, the question that rises in my mind is there is language that refers to the diversions and obstructions etc. etc. There is no definition provided for any of these issues and I really question one's ability to put the state into jeopardy in terms of who is going to pick up the bill when the lawsuits start coming in on this bill.

SENATOR MCLANE: Would you believe that anything to do with diversion or water or quantity of water is very clearly spelled out in the water quality and the water pollution statutes now? I believe particularly with the amendment, it makes it very clear that this bill does not affect diversions in the way that you seem to think.

SENATOR WHITE: Senator McLane, you say that there is no impact from the amendment but, as I read it it says that no new dam or impoundment or significant expansion of existing dams, so you are controlling existing dams in this legislation, is that correct?

SENATOR MCLANE: The rivers bill affects present dams if you are making a substantial change and the only way it really affects rivers is that new dams would have to come before the legislature. I think that if there was a substantial change in existing dams that would go before the rivers council but it would not come to the legislature.

SENATOR WHITE: As I read it it says, significant expansion of existing dams unless specifically authorized by the legislature.

SENATOR MCLANE: That is defined in the bill, I believe.

SENATOR WHITE: It specifically says, specifically authorized by the legislature.

SENATOR MCLANE: If there were significant changes that would come under the definition of a new dam.

SENATOR WHITE: Does the bill, in its amended form, still refer to the 100 hundred year flood plan?

SENATOR MCLANE: No, it does not. The bill, in its amended form, does not deal with the banks, it deals with the river and the water quality of the river itself.

AMENDMENT TO SB 326-FN-A

Amend RSA 221-B:4, I as inserted by section 1 of the bill by inserting after subparagraph (i) the following:

- (j) Ashuelot River.
- (k) Nashua River.
- (l) Nissitissit River.
- (m) Piscataquog River.

Amend RSA 221-B:7, I as inserted by section 1 of the bill by replacing it with the following:

I. No new dams or impoundments, significant expansion of existing dams, or significant interbasin transfers, unless specifically authorized by the legislature, shall be permitted. No significant diversions, obstructions, or other uses of the river, except as provided by RSA 221-B:11, shall be permitted, unless approved by the commissioner of environmental services and the river management advisory committee pursuant to RSA 221-B:7, II. For the purposes of the Electric Consumer Protection Act amendment to the Federal Power Act, outstanding rivers designated for inclusion in the program shall constitute one element of the state comprehensive plan for river conservation and development. Outstanding rivers or river segments so designated shall also constitute state protected waterways with respect to the provisions of the Public Utilities Regulatory Policies Act, section 10(a), 16 U.S.C. 800, section 210.

Amend the bill by inserting after RSA 221-B:10 as inserted by section 1 of the bill replacing it with the following new section:

221-B:11 Exemptions. Notwithstanding any other provision of law, any public water utility as defined in RSA 362:2, municipal water company or village water district which, on the effective date of this chapter, has the facilities or regulatory authority to draw water from a river protected by this chapter for the purposes of operating as a public water utility, shall be exempt from the provisions of this chapter. For the purposes of this section, facilities shall include intake structures, buildings, pumping equipment, pipelines, and related equipment and appurtenances.

Roll Call requested by Senator Freese.
Seconded by Senator Heath.

The following Senators voted yes: Hounsell, Hough, Chandler, Disnard, Roberge, Blaisdell, Pressly, Nelson, Charbonneau, McLane, Podles, Stephen, St. Jean, Torr and Krasker.

The following voted no: Bond, Heath, Freese, Dupont, White, Johnson, Delahunty and Preston.

15 Yeas

8 Nays.

Amendment adopted. Ordered to Third Reading.

SB 262-FN-A, establishing a New Hampshire conservation corps and making an appropriation therefor. Ought to Pass. Senator Hough for the Committee.

SENATOR HOUGH: The committee received the bill from the Public Institutions, Health & Human Services committee in an amended form with an appropriation of one dollar. We looked at the appropriation and agreed with it and we are reporting it ought to pass as amended by the policy committee with an appropriation of one.

SENATOR CHANDLER: Senator Hough, is this the reenactment of the old CCC?

SENATOR HOUGH: Senator Chandler, I will defer to Senator Disnard, who is the prime sponsor of this legislation and can speak to the policy of the bill. The Finance committee only looked at the appropriation of one dollar and didn't touch it.

SENATOR DISNARD: No.

SENATOR CHANDLER: It isn't the old CCC?

SENATOR DISNARD: No.

SENATOR CHANDLER: What is it then?

SENATOR DISNARD: It is a fund to assist an existing group that has private funding and federal funding and other private grants, to be able to expand the employment on youths who had problems during the summer time and expands the outdoor conservation and recreation.

Adopted. Ordered to Third Reading.

SB 275-A, relative to Skyhaven airport and making an appropriation therefor. Ought to Pass with Amendment. Senator Hough for the Committee.

SENATOR HOUGH: The amendment that the Senate Finance committee approved is on page four of calendar #9. What the committee has done is amended the bill to provide for an appropriation at the state owned facility or the sole state owned airport of Skyhaven, to build additional hanger facilities and the projects are to be covered under bonds that will be self-sustaining and self-amortizing by revenues received from the hangers. This is a very, very important state facility. It's the only airport that we own. It's critical that we maintain it in a profit mode and this will allow revenues to carry the cost of expended facilities at this state owned airport.

AMENDMENT TO SB 275-A

Amend the bill by replacing sections 1 and 2 with the following:

1 Appropriation. There is hereby appropriated to the department of transportation the sum of \$400,000 for the purpose of designing and constructing additional hangar facilities at Skyhaven airport.

2 Bonds Authorized. To provide funds for the appropriation made in section 1 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$400,000 and for said purpose shall issue revenue bonds and notes in the name of and in behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. The bonds shall be 10 year bonds. The interest and principal due on the bonds or notes issued under this paragraph shall be a direct charge against the Skyhaven hangar revenues. Prior to issuance of the bonds or notes authorized by this section, the treasurer may, for the purpose of this section, borrow money from time to time on short-term loans which may be

refunded by the issuance of the bonds or notes hereunder; provided, however, that at no time shall indebtedness on such short-term loans exceed the sum of \$400,000.

Amendment adopted. Ordered to Third Reading.

Recess

Out of Recess

Senator Dupont in the Chair.

SB 303-FN, relative to a judicial service increment. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR: SB 303-FN is a prospective salary increment occurring first in the fiscal year 1991 at a cost of \$61,500 dollars, if there is a full compliment of forty-one when judges. Therefor, there is no impact in this biennium. The amendment address' judicial conduct.

SENATOR MCLANE: I will refrain from a long civics lesson in the division between the legislative and judicial branches. I believe that the Senate has done and, I really say this in all earnestness, a despicable thing today, to attach to the judicial pay raise a disciplinary measure addressed at our court system. Despite having read Mr. War & Peace on the subject, I do not feel that it has been proven that our New Hampshire judiciary deserves this sort of treatment and I feel that this is a sorry day for this Senate.

SENATOR WHITE: Senator McLane, do you believe in the right-to-know law?

SENATOR MCLANE: I absolutely believe in the right-to-know law, but I do not believe that the right-to-know law applies to frivolous complaints about the New Hampshire judiciary. When you have a legal case, by definition, half of the parties are going to be angry and not happy with the result. There have been instances of very frivolous complaints and very vicious complaints against our judicial system. I believe that the compromise that has been worked out to have made according to rules that when there is a finding of judicial misconduct that that shall be public is perfectly adequate to deal with this situation and, I do not feel that the judiciary deserves this sort of treatment from the Senate.

SENATOR BARTLETT: Senator McLane, would you believe that after a discussion with Chief Justice Brock in regards to frivolous complaints, that I withdrew from this piece of legislation?

SENATOR MCLANE: Yes, I do and I understand that.

SENATOR BARTLETT: Would you further believe that this deals only with those who have a finding of misconduct that has been made directly by the judicial committee, which is made up mostly of judges and attorneys? Not frivolous, there has to be a finding that shows that misconduct has actually taken place?

SENATOR MCLANE: I understand that completely, and it is my contention that to deal with that matter in this fashion, is what I am speaking to today.

SENATOR BARTLETT: Senator McLane, would you believe that they have had these rules in effect for many years and have chosen not to do them in the past, to make any changes?

SENATOR MCLANE: I do understand that and, I do understand that it is perhaps for two reasons; One, that there has not been a number of complaints that have gone forward through that council. And secondly, it has because of respect for the judiciary and the need, if justice is to be served, to have respect for the judiciary that they have not gone forward with the plan that you presented.

SENATOR HEATH: Senator McLane, I guess I am a little numbfustered in how you could object to this and there are a couple questions I have. Am I correct in understanding that under the present system even another attorney in the state could not discover if a disciplinary action has been against an attorney for misconduct?

SENATOR MCLANE: I believe that is true, unless that judge was let go.

SENATOR HEATH: Am I correct in the assumption that they do not levy fines when they find misconduct?

SENATOR MCLANE: I am not certain of that.

SENATOR HEATH: How about jail sentences?

SENATOR MCLANE: I am not certain of that?

SENATOR HEATH: If my assumption is the case, then if you don't even have peer pressure, what possible punishment could there be for misconduct?

SENATOR MCLANE: I believe this is the point, is that there have not been instances, within the judiciary system in the State of New Hampshire, where this sort of action that would require fines or

jailing has come through and we are very lucky. This is what bothers me, is that we have a good judiciary and we should treat them with respect and to hang this bill, which we have already passed by everyone's admission, on to a pay raise I just think is not a good thing for our justice system.

SENATOR HEATH: Senator, you've shown by your statements, that you have a good deal of compassion for a system that has checks and balances, the legislative has checked by the judiciary and so forth. Why then, within the judiciary, do you support no checks and balances?

SENATOR MCLANE: I believe that we've had this argument many times about the financing of the courts. The legislature doesn't have a check on the judiciary and the reason is the independence of the judiciary and the legislative branch. That is why we have a court of laws in this and that's what I am trying to explain.

SENATOR WHITE: Senator Bartlett, Senator McLane referred to a compromise that has been agreed to by the various parties, is there any such compromise out there?

SENATOR BARTLETT: Senator White, I am not aware of a compromise. I received a letter from Judge Brock which we felt didn't address the issue, and therefore, compromises take two parties and at this point there is one person making an offer.

SENATOR HOUNSELL: Senator Torr, I have no problem with the amendment but, I do have some concerns about the provisions of 303 itself. I was wondering if you could help me with a couple of questions. The first being, is this money retroactive for judges?

SENATOR TORR: No, it is not.

SENATOR HOUNSELL: The second part of that question was, and you may have said that and if you did I apologize, did you ever receive a fiscal impact?

SENATOR TORR: Yes, we did and I indicated that in my presentation. The impact wouldn't occur until the fiscal year 1991, if there was a full compliment of forty-one judges the cost to the State of New Hampshire would be \$61,500 dollars.

SENATOR HOUNSELL: In 1991?

SENATOR TORR: Right.

SENATOR PRESSLY: Senator Torr, forgive my inability to fully understand this and, I may be asking what someone else has already asked. It is unclear to me exactly where it stands right now. If I understand it correctly, if we vote yes on this, we will vote the pay raise as defined and then we will also make it a requirement that once there has been a judicial conduct claim that has been settled and the judge has been found, there is a reprimand or some action has been taken against the judge that the whole case then is made available to the public, is that correct?

SENATOR TORR: You are dealing with just the amendment and the judicial conduct after a full hearing and the review process occurred, if in fact there is a finding of judicial misconduct, that would be made public.

SENATOR PRESSLY: Would just the finding be made public or would the whole proceedings; the whole argument, all of the personalities involved. Would the whole case be made public or just the finding?

SENATOR TORR: The part that would be made public, would be the complaint, the findings and their actions for that finding.

SENATOR PRESSLY: Is this the customary procedure with other disciplinary boards? Is this what we do as far as the medical complaints or psychiatric complaints? Is this the procedure that is already in place that we do elsewhere?

SENATOR TORR: I believe it is the medical or something that just came to pass within the last legislative session, whereby, if there is misconduct and after the full review of that it is made public. I believe you had one case in the State of New Hampshire that has occurred and it was made public.

SENATOR PRESSLY: Are there other disciplinary boards, such as a dental review board, a psychiatric, a chiropractic, any of these licensing boards, if fault is found, are those also open to public records?

SENATOR TORR: I don't want to give a misleading statement and I am not positive, so therefore I decline to answer that on the grounds that I am really not sure.

SENATOR PRESSLY: If someone knows the answer, I would appreciate it.

SENATOR BARTLETT: Senator Pressly, if you are treated by a physician and he has been found to be guilty of malpractice, would you not think it would be your advantage to know that before you went to him as a doctor?

SENATOR PRESSLY: My response to that is, yes, I do think that is appropriate and that is the reason that I want to be firm on what we're actually voting today. Because I do feel that if there has been a decision made, that that decision should be made public, but not every complaint. I also do question, as far as medical and psychiatric, if all of the details of the case should be made public? Possibly there is some confidential aspect of it, but the result, I feel, should be.

SENATOR BARTLETT: Would you believe that we are dealing with governmental agencies under this bill and not private agency and private individuals outside of the State government? Do you also believe that Senator White requested that we make the complaint, the findings and, the deposition or disposition of this after it has been a positive that misconduct has occurred and only at that time. Frivolous complaints are not treated in here, they are not even allowed. We are not going to jeopardize the integrity of the system with frivolous complaints, only those in which judicial conduct committee has found those people at a finding of misconduct. I think that you may agree with me that this should be public.

SENATOR PRESSLY: I believe, and in response to your questions, that I do agree with you, however, I will take it one step further. I feel that any group of private people that are also licensed by the State of New Hampshire should also have that same type of review. I think what I am looking for is consistency and I believe you have answered my question to my satisfaction, that this is consistent with the way we have handled other professions regarding their disciplinary action and I thank you.

SENATOR BARTLETT: If that is a question, I agree that we should be consistent and you should have the information on all disciplinary areas that have been found to be guilty of a misconduct or a malpractice.

SENATOR NELSON: Senator Bartlett, do you not feel that having a judicial board, who oversees all of this, and the Supreme court and SB 345 that that is enough, that we don't need to amend its guilty?

SENATOR BARTLETT: Senator Nelson, that is a good question. I will tell you, there's no question in my mind that SB 345 is a good bill

because it sits right on here but, there is a constant feeling that maybe SB 345 won't carry in the House by itself.

SENATOR NELSON: Am I to understand then, reason that this bill has been attached with this amendment is fear of failure of 345 in the House?

SENATOR BARTLETT: That would be a good assumption. In past history, it's been indicated that there are many friends of the court in the House.

SENATOR HOUNSELL: I don't like this bill. I like the amendment part, I like the part that we voted on the other day, which I guess is 345, but I have been reading 303 as it was introduced and, Senator Torr, I disagree with you. It says here as I read it, the salary each full time justice receives shall be increased by \$1500 dollars at the conclusion of its judge's second, fourth, sixth and eighth years of service as a full time justice following July 1, 1988. It doesn't say that it isn't retroactive, in fact I think it says that it is. I think that it reads that it is retroactive, but it would probably would have to go before a judge to be determined. I think this bill needs a further amendment and that that should say that it shall not be retroactive. However, I am willing to gamble \$61,500 dollars to get the other provision. So, I will vote for this amendment and if it doesn't pass, I will fight against the bill.

SENATOR NELSON: I strongly support the bill but object strenuously to the amendment. I have heard an awful lot in my short time in this Senate, and with all due respect to everybody in the room, I do not feel that this is the most appropriate way to handle the situation. Thank you.

SENATOR HOUGH: Simply put, I am diametrically opposed to the amendment here, the amendment on another bill, and the subject matter of a bill that recently passed. I am a realist and I understand that Senate President Bartlett believes strongly in insurance and it really doesn't matter, I have a feeling that's going to be somewhere signed into law. I am opposed to it now as I have ever been. You don't need to know the reasons, you just have to look at what I have fought for since I have been in the Senate.

SENATOR TORR: To address Senator Hounsell's concern, I believe he has a true concern. It may not be retroactive but the way the wording is, if in fact when the bill is implemented, the person that has served six or eight years could potentially get 4500 or 6000 dol-

lars. I guess at this point in time, it is legislative intent that that not occur. Legislative intent is that this is a prospective bill that does not become implemented until 1991. As far as payment is concerned, the implementation of time occurring, which they basically start at point 0, as of June 30, 1988. Therefore, you eliminate the prospect of basically an added increase that wasn't intended to happen.

SENATOR HEATH: Senator Torr, just to make everything absolutely clear, your expression of the legislative intent, those of us who are voting for it are voting for it with that presumption. Is that a correct assumption, so if the court is ever listening to these tapes to interpret our intent that that would be it as you expressed it?

SENATOR TORR: Senator Heath, that is the purpose of my statement, that if in fact they do their background work, as any judicial person should do, they would discover the fact that the legislative intent was just what I stated. I believe they testified to that effect, too. Chief Justice Brock testified it was prospective.

SENATOR HEATH: So there should be no ambiguity if this bill should pass this chamber as to what the intent is?

SENATOR TORR: That is right.

SENATOR BARTLETT: Mr. President, I just spoke to Senator Hounsell and he assures me that he can go down to Legislative Services and we can send a clean bill out of here so that there is no question about legislative intent. If this is what the body wishes it to be, what I think the you would feel it understands, why don't we pass over this and give him sufficient time to go downstairs and bring back an amendment that will clarify the questions and when it goes out of the Senate there won't be any question what it is.

Senator Bartlett moved to lay SB 303 on the table.

Adopted.

SB 307-FN, relative to retirement pay for judges and to vested rights in judicial retirement compensation. Ought to Pass with Amendment. Senator St. Jean for the Committee.

SENATOR ST. JEAN: Senate Finance met on SB 307-FN. This deals with retirement benefits for our justices. Basically what it does is, an individual who is 60 years of age with 20 years of service on the bench gets 3/4 pay. Individuals 65 years of age with 10 years

of service, after they reach the age of 65 get 33 1/3% of their salary. After 15 years of service, again at the age of 65, they get 1/2 salary and twenty years at the age of 65 get 75% of their salary. We had long discussions in Senate Finance about a judge who sat on the bench for ten years and wants to go into private practice. Under this particular piece of legislation, this would allow the judge to go into private practice, and then after the age of 65 receive his retirement benefits. We felt that this was a good piece of legislation and with the particular amendment we attached to it, it makes it even a better piece of legislation.

SENATOR HOUNSELL: Senator St. Jean, on both 303 and 307 I read the following, the LBA is unable to estimate fiscal impact because the LBA has not received a fiscal work sheet from the administrative office of the courts, and I was wondering if perhaps you could clear in my mind, what this impact is or might be?

SENATOR ST. JEAN: I wish I could Senator, but it is not unusual for LBA not to come up with a fiscal impact statement. I only wish I could supply you with that information.

SENATOR HOUNSELL: Are we voting on this plan without knowing the fiscal impact?

SENATOR ST. JEAN: We are, to that degree Senator, yes.

SENATOR CHANDLER: Senator St. Jean, does this bill do anything for the judge's widows?

SENATOR ST. JEAN: Yes it does. It is my understanding that widows are already covered under legislation. If a judge passes away, they will be covered completely.

SENATOR CHANDLER: I know they are already covered, but does this give them more coverage or less?

SENATOR ST. JEAN: I don't think it does anything with what is currently on the books.

SENATOR BARTLETT: For the record, I have been depicted as the enemy of the court and if you will pick up 307-FN, just for your information, you will see who is the prime sponsor of this piece of legislation, so that we all don't think that I am out there trying to embarrass the court or anything else. I am one of the prime sponsors and I support this bill and I think it is important that we allow

some vesting so that we will offer out there to people who come onto the bench and find after a few years, maybe ten years, they don't like the bench. It would certainly be horrible to have someone sitting on the bench for the next ten or fifteen years to wait for retirement. I think this would encourage people to come onto the bench knowing that they are not stuck there for a lifetime, because if they got off before retirement they would lose all their benefits. I think this encouragement, there has always been question out there as to what we do to encourage attorneys to leave the lucrative practice of law to come onto the bench, but this does, in some way, say look, you have been there ten years or more and you find that this is not your cup of tea, you haven't given away ten years without some benefit at age 65.

SENATOR DISNARD: Senator St. Jean, I just don't understand why we are setting up, as you said this bill, sets up for a judge with 20 years of service 75% of the salary, again I go back to my famous profession, I know teachers thirty years, at age 60, on the firing line with more and more disruptive type students, why they're are only entitled to 50% of their salary and, if they wish to need some money to help their spouse or a child, then they have to pay additional monies called popup. Would you explain to me why we are setting up a third type of capital?

SENATOR ST. JEAN: I think that after the recent Supreme Court decision on the quip legislation they are entitled to some extra benefits.

SENATOR HOUNSELL: I rise in opposition to both this amendment and the bill. I want to share something with you all that happened to me yesterday and that is in regards to trying to get a piece of paper out of the courts. As you know, the Supreme Court did render an opinion and it happened to be the one about quip and I was interested in what that opinion was. So, as a Senator sometime asked to vote on such matters, I called the clerk of the Supreme Court and asked if I could have a copy of the opinion? I was told by Mr. Wood and very politely he told me, no, it wasn't provided to the members of the public. I said well that's interesting. I talked with him at some length and he finally decided that he could make an exception, and that he would try very hard to get a copy of this opinion to me. I felt that that was not a slap in my face but, a slap in the face of the people who have elected me to come down here and serve them, on this matter. In fact, I think it is a slap in the face of the whole Senate. I think another slap in the face is that these are

two bills dealing with money that is going to go to the judiciary and I would think that that would be important enough for them to work up a work sheet so we would have a fiscal impact. But, Senator St. Jean has eluded to that and said that we don't have a fiscal impact, we don't know what we got here. We don't know what we are buying and we don't know what we are investing in. I am not an enemy of the court and I don't believe Senator Bartlett has ever been an enemy of the court but, I am a friend of the people, I try to be a friend of the people and I don't think it is responsible for us, to everytime we get a chance to do something for the people, such as the judicial review issue, for us to have to buy it from the judges. I'm not going to go on much more about it because I am starting to get mad, but I will say this, this is not good legislation.

SENATOR BARTLETT: Senator Hounsell, would you believe the court system really does not have the ability to tell who is going to retire in the next ten years or the next fifteen or the next 20 years on undervested. Anything that they gave you would be a guess and just a perspective? They might hire an actuary to come in and say, that normally we have so many judges, I think we've got forty-one, that they really can't tell you. In all defense of their actions, would you believe that they really don't know who is going to retire?

SENATOR HOUNSELL: I would agree Senator that that is the case, but I would also say until they are willing to stand for reappointment, I am not giving them anything.

AMENDMENT TO SB 307-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to retirement pay for judges, to vested rights
in judicial retirement compensation, and to
the committee on judicial conduct.

Amend the bill by replacing section 5 with the following:

5 New Subdivision; Committee on Judicial Conduct; Proceedings Regarding Certain Complaints to be Made Public. Amend RSA 490 by inserting after section 29 the following new subdivision:
Committee on Judicial Conduct

490:30 Committee on Judicial Conduct.

I. The committee on judicial conduct shall make available to the public a copy of the complaint, the committee findings thereon, and a report of disciplinary actions taken with regard to a complaint;

provided that the committee finds that the complaint was justified and that the person who is the subject of the complaint committed a violation of the Code of Judicial Conduct. The provisions of this paragraph shall apply only after the review process of the complaint is completed.

II. The committee on judicial conduct shall conduct a hearing within 90 days of its receipt of a complaint, unless the committee determines that a hearing is not necessary. Where the committee decides a hearing is not necessary, the committee shall make final disposition of the complaint within 90 days of receipt of the complaint.

6 Application. The provisions of section 1-4 of this act shall not apply to any judge or to the surviving spouse and children of any judge who retired or who left judicial service prior to the effective date of sections 1-4 of this act.

7 Effective Date.

I. Section 5 of this act shall take effect January 1, 1989.

II. The remainder of this act shall take effect 60 days after its passage.

Amendment adopted. Ordered to Third Reading.

Recess

Out of Recess

Senator Bartlett in the Chair.

SB 313-FN, providing a cost of living increase for New Hampshire retirement system members. Ought to Pass with Amendment. Senator McLane for the Committee.

SENATOR MCLANE: This is the so-called Cola bill for retired state employees. It provides a 5% cost of living adjustment to the New Hampshire retirement system beneficiaries. It has been amended to take out group I because they are covered in 327, which is the next bill that you will consider.

AMENDMENT TO SB 313-FN

Amend the title of the bill by replacing it with the following:

AN ACT

providing a cost of living increase for New Hampshire retirement system group II members.

Amend the bill by replacing section 1 with the following:

1 New Section; Cost of Living Adjustment. Amend RSA 100-A by inserting after section 42-b the following new section:

100-A:42-c Additional Allowance. As of July 1, 1988, all group II beneficiaries of the New Hampshire retirement system or of its predecessor systems who retired prior to July 1, 1987, and who are receiving retirement allowances according to RSA 100-A or to RSA 100, RSA 102, or RSA 103, shall receive an additional allowance of 5 percent. The additional allowance shall become a permanent part of each beneficiary's base retirement allowance, as provided in RSA 100-A:42-a.

Amendment adopted. Ordered to Third Reading.

SB 327-FN, eliminating the social security offset provision for Group I members of the retirement system. Ought to Pass with Amendment. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: The Senate Finance amendment to this bill adds two new members of the Board of Trustees of the New Hampshire retirement system. The additional members consists of one member of the Senate Insurance committee, appointed by the Senate President, and one member of the House EDNA committee, appointed by the Speaker.

AMENDMENT TO SB 327-FN

Amend the title of the bill by replacing it with the following:

AN ACT

eliminating the social security offset provision for group I
members of the retirement system and relative
to retirement system administration.

Amend the bill by replacing section 1 with the following:

1 Elimination of Social Security Offset for Group I Service Retirement. RSA 100-A:5, I (b) is repealed and reenacted to read as follows:

(b) Upon service retirement, an employee member or teacher member of group I shall receive a service retirement allowance which shall consist of a member annuity which shall be the actuarial equivalent of the member's accumulated contributions at the time of retirement, and a state annuity. Prior to the member's attainment of age 65, the state annuity, together with the member annuity, shall

be equal to $\frac{1}{60}$ of the member's average final compensation multiplied by the number of years of creditable service. After attainment of age 65, the state annuity, together with the members annuity, shall be equal to $\frac{1}{66}$ of the member's average final compensation multiplied by the number of years of creditable service.

Amend the bill by replacing section 6 with the following:

6 Change in Group I Employee Contribution Rate and Elimination of Social Security Integration Formula for Employee Contribution. Amend RSA 100-A:16, I(a) to read as follows:

(a) The member annuity savings fund shall be a fund in which shall be accumulated the contributions deducted from the compensation of members to provide for their member annuities together with any amounts transferred thereto from a similar fund under one or more of the predecessor systems. Such contribution shall be, for each member, dependent upon [its] the member's employment classification at the rate determined in accordance with the following table[.]: [With respect to the rates listed in the following table for employees and teachers, the percentages are applicable to that portion of earnable compensation in excess of the maximum amount of taxable wages under the Federal Insurance Contributions Act, as from time to time in effect, with $\frac{1}{2}$ of such rate being applicable to that portion of earnable compensation which is not in excess of such amount.]

Employees.	[9.20]	5.00
Teachers	[9.20]	5.00
Permanent Policemen		9.30
Permanent Firemen		9.30

The board of trustees shall certify to the proper authority or officer responsible for making up the payroll of each employer, and such authority or officer shall cause to be deducted from the compensation of each member, on each and every payroll of such employer for each and every payroll period, the percentage of earnable compensation applicable to such member. In determining the amount earnable by a member in a payroll period, the board may consider the rate of compensation payable to such member on the first day of a payroll period as continuing throughout the payroll period and it may omit deduction from compensation for any period less than a full payroll period if such person was not a member on the first day of the payroll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as shall not exceed $\frac{1}{10}$ of one percent of the annual earnable compensation

upon the basis of which such deduction is made. The amounts deducted shall be reported to the board of trustees. Each of such amounts, when deducted, shall be paid to the retirement system at such times as may be designated by the board of trustees and credited to the individual account, in the member annuity savings fund, of the member from whose compensation the deduction was made.

Amend the bill by replacing section 11 with the following:

11 Retirement System Administration. Amend RSA 100-A:14, I to read as follows:

I. The administration of this system is vested in a board of [11] 13 trustees. The bank commissioner shall be an ex officio voting member of the board but shall abstain from voting on the placement of funds in New Hampshire banks. The governor and council shall appoint 2 trustees, to be known as non-member trustees, who shall be qualified persons with business experience and not be members of the system, and who shall serve for a term of 2 years and until their successors are appointed and qualified, except that the original appointment of one of the non-member trustees shall be for a term of one year. The remaining [8] 10 members of the board shall consist of 2 employees, 2 teachers, 2 permanent policemen, [and] 2 permanent firemen[.] , one member of the senate who serves on the insurance committee and who shall be appointed annually by the senate president, and one member of the house of representatives who serves on the executive departments and administration committee and who shall be appointed annually by the speaker of the house. Whenever a vacancy occurs, the senate president or the speaker of the house shall fill the vacancy in the same manner by appointing a senate or a house member who shall serve for the unexpired term. The New Hampshire state employees' association, the New Hampshire education association, the New Hampshire police association, and the New Hampshire state permanent firemen's association shall each annually nominate from their members a panel of 5 persons, all of whom shall be active members of the retirement system, or one of the 4 predecessor systems, no later than May 31 of each year, and the panels so named shall be filed with the secretary of state no later than June 10 of each year. From each of the above named panels the governor and council shall originally appoint 2 persons, and thereafter one annually to the board. Members appointed to the board in the manner aforesaid shall serve for a term of 2 years, except that the original appointments of one of the persons from each panel shall be for a term of one year. Each member so appointed shall hold office until his successor shall be appointed and qualified. Whenever a

vacancy occurs, the governor and council shall fill the vacancy by appointing a member who shall serve for the unexpired term from the same panel from which the former member was appointed. The governor shall designate one of the non-member trustees to serve as chairman of said board of trustees. The chairman [and] , the senate member, the house member, and the 4 group I members shall constitute one subcommittee and the chairman [and] , the senate member, the house member, and the 4 group II members shall constitute another subcommittee. Each subcommittee shall, relative to the members of their respective group, consider policy problems and make recommendations relative to the same to the board of trustees and make recommendations to the board of trustees concerning applications under the provisions of RSA 100-A:6. For the purposes of transacting any business, 4 members of a subcommittee shall constitute a quorum.

12 Effective Date. This act shall take effect July 1, 1988.

Amendment adopted. Ordered to Third Reading.

¶SB 330-FN, providing medical and health insurance coverage for retired non-state group II New Hampshire retirement system members. Ought to Pass with Amendment. Senator Blaisdell for the Committee.

SENATOR BLAISDELL: SB 330, I'm going to ask the Senate to recommit this to Senate Finance so that I can have an actuary come up on Monday to speak to us and also to have a meeting at eleven o'clock of Senate Finance. There's nothing wrong with the bill. We're just waiting for the language to come up from our actuary that will take care of the federal problem that we had with this bill. There's nothing wrong with the rest of the bill and I want them to know it. We're just going to bring it back down and make sure that what we do is legal and I ask that consideration, to send it back into Finance and we'll get it right back up to you.

Senator Blaisdell moved to recommit to committee.

Adopted.

SB 331-FN, relative to payment for forensic medical examinations of sexual assault victims. Ought to Pass with Amendment. Senator McLane for the Committee.

SENATOR MCLANE: Rape is the only crime in which the victim is made to pay for the gathering of evidence that will convict the perpetrator. There were examples given at the hearing, in Public Insti-

tutions, of women in the Portsmouth area, where there have been many rapes, who were taken by the rape and assault counselors to the hospital, as they should, going to the hospital to gather the necessary information to convict the rapist and those women would get a bill for \$200 for the examination, because over half of them had no medical insurance, they probably didn't pay the bill and then they would get taken after by a dunning company, hired by the hospital. I believe that it is important that the state pay for that examination because it is literally gathering of evidence. The bill would provide for the examinations and for what they call rape examination kits and training and using those kits and so that these people would be taken to court and convicted because of the quality of the evidence.

AMENDMENT TO SB 331-FN

Amend the bill by replacing section 2 with the following:

2 Supplemental Appropriation; Department of Justice. In addition to any other sums appropriated to the office of victim/witness assistance, department of justice, the sum of \$30,000 is hereby appropriated for the fiscal year ending June 30, 1989, for the following purposes:

	<i>FY 1989</i>
I. Examinations of Rape Victims under RSA 21-M:8-c	\$ 20,000
II. Rape Examination Kits under RSA 21-M:8-d	4,500
III. Training - Use of Rape Examination Kits	5,500
Total	<u>\$ 30,000</u>

The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

Amendment adopted. Ordered to Third Reading.

SB 338-FN-A, relative to a statewide plan for public and private transportation and making an appropriation therefor. Ought to Pass with Amendment. Senator Hough for the Committee.

SENATOR HOUGH: The amendment which was attached to this bill by the Senate Finance committee, in fact I believe it strikes the appropriation and it directs the Department of Transportation to develop an RFP to report back to the legislature for further consideration of an in-depth study of the transportation needs. The bill as we looked at it was simply too wide in its scope and ill conceived and not definitive in the objective, so the committee felt that the department should do a needs assessment and develop a request for a pro-

posal for an in-depth study. When they come back to us with that information we would be more inclined to go forward with funding the type of study that this entails.

AMENDMENT TO SB 338-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT relative to a statewide plan for public and private transportation.

Amend the bill by replacing all after the enacting clause with the following:

1 Statement of Purpose. The general court recognizes that, because the state is growing rapidly, many public and private agencies are providing group transportation, including transportation for the handicapped. These agencies usually operate independently of each other, and there is a growing amount of public and private funds being spent to provide such transportation. Therefore, the general court declares that it is necessary to determine the number of existing private and public groups providing transportation within and between the major regions in the state and the cost of such transportation and to develop a statewide plan to coordinate such transportation in an efficient manner. To accomplish this goal, the general court hereby directs the department of transportation to submit a request for a proposal relative to the estimated costs of a study of transportation resources in New Hampshire.

2 Request for Proposal. The department of transportation shall submit the request for the proposal specified in section 1 of this act no later than December 1, 1988, to the speaker of the house of representatives, the president of the senate and the governor. The proposal shall define the parameters of a comprehensive study of transportation resources in New Hampshire and the estimated costs of such a study.

3 Effective Date. This act shall take effect upon its passage.

Amendment adopted. Ordered to Third Reading.

SB 254-FN-A, making a supplemental appropriation for school aid. Ought to Pass. Senator Hough for the Committee.

SENATOR HOUGH: We looked at this bill as it came to us from the Committee of Education. The figure of 256,000 dollars, for this year of the biennium, fully funds our obligation to the locals in the area of

school building aid. It is a supplemental appropriation to the funds in the budget to meet the states cost to support the school building aid.

Adopted. Ordered to Third Reading.

SB 289-FN, relative to foundation aid levels. Ought to Pass with Amendment. Senator Hough for the Committee.

SENATOR HOUGH: The amendment to SB 289-FN eliminates the appropriation and in its place puts the language that is similar to language in another bill in the House that will study foundation aid and report back by December 1st. It's the identical language that the other body is looking at and hopefully, out of this we can go forward on the assessment of foundation aid that Senator Heath's study committee has reported on and have a true answer as to the effectiveness of this program.

AMENDMENT TO SB 289-FN

Amend the title of the bill by replacing it with the following:

AN ACT

authorizing the hiring of a consultant
to study the effectiveness of the
foundation aid formula.

Amend the bill by replacing all after the enacting clause with the following:

1 Study Authorized. The committee to evaluate the foundation aid formula, established by 1987, 264:1, is authorized, with the assistance of the legislative budget assistant, to hire an independent consultant to work at the direction of the committee and the legislative budget assistant. The consultant shall review, study, and report on the effectiveness of the foundation aid formula contained in RSA 198:27-33, and also study the effect, if any, of the formula on the quality of education provided by the school districts. The consultant shall submit interim reports on his progress to the committee by December 1, 1988, by December 1, 1989, and by December 1, 1990. He shall submit a final report of his findings on or before September 1, 1991, to the governor, the executive council, the speaker of the house, and the president of the senate. The cost of this study shall not exceed \$50,000.

2 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted. Ordered to Third Reading.

SB 294-FN, relative to the catastrophic aid formula. Ought to Pass with Amendment. Senator Hough for the Committee.

SENATOR HOUGH: The committee on Finance amended this bill to put the dollars in, in the first year. This is a supplemental appropriation that allows for a full funding of our obligations in the catastrophic aid program. This is a supplemental appropriation to the budget for this present year and the amendment only adds the money.

AMENDMENT TO SB 294-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the catastrophic aid formula, and making
a supplemental appropriation therefor.

Amend the bill by replacing section 3 with the following:

3 Supplemental Appropriation. In addition to any other sums appropriated to PAU 06,03,03,03,01, special education - state, catastrophic costs, class 92, the sum of \$600,000 is hereby appropriated for the fiscal year ending June 30, 1988, to said PAU. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

4 Effective Date.

I. Sections 1 and 2 of this act shall take effect on July 1, 1988.

II. Section 3 of this act shall take effect upon its passage.

Amendment adopted. Ordered to Third Reading.

SB 334-FN-A, establishing a comprehensive literacy and dropout prevention program, and making an appropriation therefor. Ought to Pass with Amendment. Senator Hough for the Committee.

SENATOR HOUGH: If you take the floor amendment that you have in front of you and go to page 10 on that, you will see section XI which is the appropriation section. This is the area that the committee on Finance amended the bill as it was received from the policy

committee that previously approved the bill. In reviewing the finance section of the bill and having the LBA office to review the technical aspects of it, the committee agreed to make the appropriation and the proper language that all of our appropriation bills have. The bill, prior to section I, was open ended and it allowed for not less than 15 dollars to be spent on these initial evaluation test. We put in a 250,000 dollars as an appropriation level. We changed the effective date of the appropriation of this section to 60 days from passage in this biennium and made it non-lapsing. Similarly, in section II, is \$1.4 million which we appropriated, made non-lapsing and, in section III, it's money that we appropriated for dropout prevention and made non-lapsing. On page 11, we allowed for section III, which is the advisory council, to come on line 60 days from passage. The balance of the bill, the part of the bill that you are most concerned with and most familiar with, setting up the new comprehensive dropout prevention in literacy, remains with the same effective date that the policy committee agreed to and that is July 1, 1989 which is the beginning of the new biennium. What in fact we have done here is appropriated the money and allowed it to be non-lapsing if it is not committed and spent during the next 18 months, it will, can be, carried forward into the next biennium for this program. But, in affect if you are going to pass this major piece of legislation, you ought to commit your resources with an appropriation, and that is the position of the committee.

SENATOR HOUNSELL: I think one thing about this bill that should be commended is that the Senate is responsible in funding a program that is new. I think, for that purpose I rise in support of the Finance Committee's report. I have looked at this bill and I have been uneasy with it. I just want to point out an uneasiness that I have, and that is with the special requirements for minors under 263:17, that no person under the age of 18 shall be issued a driver's license unless he presents an official record showing that his achievement level is in compliance with a provision of RSA 189:54. I object to that for the following reasons; I believe that that is discriminatory on the basis of an education. I know that some will argue that a driver's license is a privilege and not a right; however, I would offer that in this society that we have, it is a necessity. So, on that reason I have to rise in opposition of that provision of the bill, that it is discriminatory on the basis of education.

SENATOR DISNARD: Senator Hounsell, would you believe that your concerns are answered in this bill, because every section including that, there is now an appeal process for extenuating circumstances?

SENATOR HOUNSELL: Senator, I commend you for this bill, I really do, I mean that. I commend you for what you're trying to do and I commend this Senate for tackling this program and this problem. I think there are parts of this bill, like the statement of policy, and others, that fit quite well. I think the Finance committee has done a good job in recognizing the responsibility to fund a new program. However, I don't think an appeal process that set up the way the appeal process is set up in this section is adequate. I do object to it because I do find that that provision, in my mind at least, is discriminatory on the basis of education.

SENATOR DISNARD: I accept your reasoning, Thank you.

SENATOR JOHNSON: Some years ago I saw a wall poster that said, "grab the ball and run, it is the speed that counts, not the direction". It is really my feeling that regardless of all effort that has been put forward, that this is what we've really done in regard of this bill. We've made major changes to it about twelve times, but I think that it is on a track that it is going to go down and it is going to go down that track this afternoon, but before it does I would like to just point out a couple of things.

I am looking at a letter that I received a few days ago and this letter can be made an argument for or against, but let's let it stand on its own. "I am writing to say that I disagree with the dropout bill. Back nine years ago when I was in school, we had some students that did not want to stay in school but their parents would not let them quit, so they made it harder for other students because they disrupt the classes and the students. Also, my parents divorced when I was in elementary school, so I had to get odd jobs to buy my own clothes. When I got into high school I got a part time job so I could buy what I needed. If they make students take tenth grade test just to get a part time job they might be making it rougher for some students who need the extra money to go through school. Plus, having a job and a driver's license helps teach them responsibility."

The one swallow doesn't make a spring but I just thought I would share that with you. Let me point out one other part of this bill that hasn't really been attended to and I think it is probably an oversight,

but frankly I don't know for sure. If you want to follow what I am saying, I will refer you to page 9, section VII. I would like to say to you that the Senate Education Committee adopted what I consider to be a major policy change in the version of SB 334, that was before the committee when we had the hearing. That change shifted from state control to local control. That was applicable to a driver's license aspect and it was also applicable to the dropout aspect. In section VII, page nine of this bill, this bill still calls for a grade eight state approved test in a performance level determined by the state board of education. So, in part of this bill we have a major policy shift from where the bill started, which call for state control back to local control, but we still have this piece in the bill that we are voting on before us today. That can be corrected somewhere along the line, but that is what is before us today. In regard to the diagnostic screen that is called for, we should all feel good about this because it is an effort to provide a local school district with 15 dollars now, the bill as originally written said not less than 15 dollars. So, in a sense it was somewhat open ended but my understanding of what the Senate Finance committee did was get some kind of an estimate as to the number of new students, multiply that times 15 dollars and got 250,000 dollars. That is, presumably, a no strings attached. However, there was no evidence presented to the Senate Education Committee, that I am aware of, nor yesterday to the Senate Finance Committee, that really gave a true reading as to what would be the cost of the diagnostic screening required by the bill before us. So, there is a problem in that regard also. I think it is on a track and I think that it can be cleared up somewhere along the line but, I just think we ought to at least know some of what is going on in this bill.

Amendment to SB 334-FN-A

Amend the bill by replacing all after the enacting clause with the following:

1 Statement of Policy.

I. The state of New Hampshire is committed to the development and maintenance of an educated and productive citizenry. To ensure this commitment, all persons should have an equal opportunity to acquire literacy, including basic reading, writing, speaking, listening, reasoning, and mathematics skills. The opportunity to access and acquire these skills should be provided through a variety of educational programs and methods to meet the different needs and abilities of children and youth. Special effort should be made to accommodate the literacy requirements of atypical or handicapped

learners, and preventative measures should be taken to assure that students do not drop out of school.

II. Important to success in literacy training is that the student be alert and healthy during the instructional period. Permissive child labor laws which can lead to fatigue should be modified to allow for the need for work experience only during appropriate work periods, and to coordinate work periods with the child's school schedules to provide for the health and welfare of the child.

2 New Subparagraph; Rulemaking. Amend RSA 21-N:9, II by inserting after subparagraph (u) the following new subparagraph:

(v) Administering the literacy education and dropout prevention program established in RSA 189:52-58.

3 New Subdivision; Literacy Instruction and Dropout Prevention. Amend RSA 189 by inserting after section 51 the following new subdivision:

Literacy Instruction and Dropout Prevention

189:52 Identification of Children at Risk. All school districts that provide elementary or secondary instruction are required to diagnostically screen to the extent of state funding all children upon their first entry to the school graded structure at kindergarten, first grade, or a higher grade level, unless previously diagnostically screened, to determine their levels of educational readiness. Diagnostic screening should address the child's educational development and should be used to determine an appropriate program of instruction in the literacy skills of reading, writing, speaking, listening, reasoning, and mathematics.

189:53 Literacy Skill Development in Elementary Grades. All school districts which provide elementary education shall have instruction in literacy for all students through grade 3, including instruction in reading, writing, speaking, listening, reasoning, and mathematics. All instruction shall be designed to assist students to achieve literacy and to provide the opportunity for each child to learn according to his needs and his abilities as set forth by the state board of education in the minimum standards for New Hampshire public elementary schools.

189:54 Literacy Instruction for Educationally Disadvantaged Students.

I. For purposes of this subdivision, an educationally disadvantaged child is one whose educational achievement is significantly less than his anticipated performance in reading, writing, speaking, listening, reasoning, and mathematics as determined by cognitive measurements approved by the commissioner of education. The commissioner of education shall annually designate cut-off points for

the state-wide level of supplemental services, based upon achievement test results related to anticipated performance levels in reading, writing, speaking, listening, reasoning, and mathematics.

II. In order to be eligible to leave school voluntarily at age 16 or 17, or be eligible for a driver's license, a student shall demonstrate an achievement level as determined by his local school board, commensurate with his cognitive skills as demonstrated on tests selected by the local school board and approved by the state board of education. Students who reach 16 years of age prior to the administration date of a tenth grade achievement test shall be given a locally selected achievement test, approved by the state department of education, to determine eligibility for a driver's license or for voluntarily leaving school.

III. All school districts shall, to the extent of state funding, provide supplementary literacy instruction for educationally disadvantaged students through grade 12. Services shall be provided first to those who are determined to be most educationally disadvantaged. Services shall focus on instruction in reading, writing, speaking, listening, reasoning, and mathematics. Program emphasis shall include in:

(a) Primary grades, intensive development of literacy skills, based upon the individual child's literacy knowledge.

(b) Grades 4-8, remediation in literacy, accomplished through small group instruction and individualized remediation.

(c) Grades 9-12, intensive remediation in literacy, accomplished through prescriptive remediation in small group or individualized setting.

IV. The costs for intensive literacy development in kindergarten through grade 3 for districts with kindergarten, and first grade through grade 3 for districts without kindergarten, and remediation in grades 4-11 shall be funded by the department of education. The department of education shall allocate funds among school districts based upon program plans submitted annually by the local school districts to the department of education, pursuant to paragraph V of this section.

V. Programs for supplementary literacy instruction for educationally disadvantaged students in primary through twelfth grades shall meet the following criteria, and shall be included in an annual plan submitted to, and subject to the approval of, the department of education:

(a) Services shall be based on an annual assessment of need.

(b) Programs shall have performance objectives evaluated annually.

(c) Plans shall provide detail on the types of supplementary services they may require.

Programs shall be provided technical assistance and monitoring by the department of education to the extent possible. School districts shall maintain records on the above criteria and allow access to records by the department of education.

VI. Funds allocated for this program shall be used to supplement, not replace, existing instructional activities. The commissioner of education may waive the requirement for use of all or part of these funds if it is shown to his satisfaction that the on-going level of literacy instruction meets the standards set for student achievement.

VII. A person aggrieved by a determination made pursuant to this subdivision may appeal in order to demonstrate hardship or extenuating circumstances. Such appeals shall be handled in an expeditious manner through the administrative process ordinarily used by a local school district to resolve controversies between individuals and the local educational agency.

189:55 Dropout Prevention.

I. The department of education shall underwrite the costs of selected school district programs or services that address the academic, social, or personal needs of potential school dropouts. Proposals shall be funded through the office of dropout prevention.

II. Project proposals shall be selected and funds allocated through the office of dropout prevention at the discretion of the commissioner of education. These funds shall supplement, not replace, local, state or federal program funds expended for these purposes.

189:56 Advisory Council on Literacy and Dropout Prevention. There is established a state advisory council on literacy, dropout prevention, and youth employment. The council shall be composed of 11 members, 9 of whom shall be appointed by the governor; one of whom shall be a member of the house of representatives, appointed by the speaker; and one of whom shall be a member of the senate, appointed by the president of the senate. The members shall have demonstrated an interest or expertise in programs for educationally disadvantaged students. The non-legislative membership shall include teachers, parents, administrators, school board members, and representatives of labor, business and industry. Members of the council shall be residents of this state and shall serve without compensation. Non-legislative members shall serve at the discretion of the governor. The function of the advisory council is to advise the governor, the general court, state board of education, and the commissioners of education and labor on matters pertaining to literacy, dropout prevention, and youth labor and employment. The advisory

committee shall develop and submit a biennial report on literacy, dropout prevention, and youth employment to the governor, the president of the senate, the speaker of the house, the state board of education, the department of labor, and the commissioners of education and labor. The department of education shall provide administrative support for the council.

189:57 Coordination with Special Population Programs. Educational and youth employment programs serving special population students shall be coordinated with the requirements of this subdivision. All such programs shall emphasize the literacy, dropout prevention, and youth employment objectives in this subdivision to the extent appropriate for the students in each program. All such coordinating efforts shall not exempt participating school districts or public or private employers from meeting all requirements of state or federal laws.

189:58 Rulemaking. The state board of education shall adopt rules pursuant to RSA 541-A, relative to the procedures and guidelines necessary to effect the purposes of this subdivision.

4 Achievement Scores Necessary for Driver's License. Amend RSA 263:17 to read as follows:

263:17 Special Requirements for Minors. No person under the age of 18 years shall be issued a driver's license unless the person's father, mother, or guardian, or, in the event there is no parent or guardian, another responsible adult, gives written permission for the issuance of such license, insurance coverage is presented at the time of application or the person under 18 is emancipated by marriage. No person under the age of 18 years shall be issued a driver's license unless he presents an official record, showing that his scholastic achievement is in compliance with the provisions of RSA 189:54, II. A person aggrieved by a determination made pursuant to this section may appeal in order to demonstrate hardship or extenuating circumstances. Such appeals shall be handled in an expeditious manner through the administrative process ordinarily used by a local school district to resolve controversies between individuals and the local educational agency.

5 Youth Employment; Hours of Work. RSA 276-A:4, IV is repealed and reenacted to read as follows:

IV.(a) No youth 16 or 17 years of age who is duly enrolled in school shall be employed or permitted to work earlier than 7 o'clock a.m. or later than 9 o'clock p.m., more than 4 hours per day Monday through Thursday, and 8 hours per day Friday, Saturday and Sunday, provided that such a youth shall not be allowed to work later than 6 o'clock p.m. on Sunday, and shall be limited to a total of 36

hours per week during school weeks. During school vacations a youth 16 or 17 years of age may work 8 hours per day for a total of 48 hours per week.

(b) No youth under 16 years of age shall be employed or permitted to work earlier than 7 o'clock a.m. or later than 7 o'clock p.m., more than 3 hours per day Monday through Friday, 8 hours on Saturday and 5 hours on Sunday, provided that such a youth shall not be allowed to work later than 6 o'clock p.m. on Sunday, and shall be limited to 23 hours per week during school weeks. During school vacations youths under 16 years of age may be employed 8 hours per day for a total of 40 hours per week.

(c) Work training during or after school hours shall be permitted for minors 14 through 17 years of age if the employer has on file an unrevoked signed written statement from the minor's school principal or work experience coordinator setting out the period during which the minor may work, and certifying that his employment shall be confined to those periods and shall not interfere with his health and well being. It shall also contain a statement signed by the principal of the minor's school that employment shall not interfere with the minor's schooling.

6 Age of Employment. Amend RSA 276-A:4, V to read as follows:

V. No youth under [12] 14 years of age may be employed or permitted to work except for his parents, grandparents, or guardian, or at work defined in this chapter as casual, or in the door-to-door delivery of newspapers.

7 Certificate. Amend RSA 276-A:5, I to read as follows:

I. Certificates shall be issued by principals of schools or persons authorized by them, except that responsibility for supervision and coordination with the department in matters pertaining to this chapter shall rest upon superintendents of schools. With exception for locally determined cases of extenuating circumstances, work certificates shall be issued by school principals to students who have completed the eighth grade and who have attained a composite score on a grade 8 state approved test at a performance level determined by the state board of education. Continued employment shall be contingent on successful performance by the student in his program of studies. In the event satisfactory performance as determined by local school board policy, is not being maintained, the work certificate may be revoked by the principal.

8 New Section; Appeal. Amend RSA 276-A by inserting after section 5 the following new section.

276-A:5-a Appeal of Decisions. A person aggrieved by a determination made pursuant to RSA 276-A:5, I may appeal in order to demonstrate hardship or extenuating circumstances. Such appeals shall be

handled in an expeditious manner through the administrative process ordinarily used by a local school district to resolve controversies between individuals and the local educational agency. Any person not satisfied by this appeals process may appeal to the commissioner of labor through an appeals procedure established pursuant to RSA 276-A:8.

9 Penalty. Amend RSA 276-A:7 to read as follows:

276-A:7 Penalties. With the exception of a parent, grandparent or guardian, whoever employs a youth or permits him to work in violation of the provisions of RSA 276-A, shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person. In addition, such a person shall be liable for a civil penalty not to exceed \$1,000 for each violation of this chapter.

10 Repeal. RSA 275:15-27, relative to hours of labor for minors and females, are repealed.

11 Appropriation.

I. The sum of \$250,000 is appropriated to the department of education for the biennium ending June 30, 1989, for the purpose of funding the screening program established in RSA 189:52, based upon a sum equal to projected entering enrollment multiplied by no less than \$15. This appropriation shall be nonlapsing. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

II. The sum of \$1,400,000 is appropriated to the department of education for the biennium ending June 30, 1989, for the purpose of funding the literacy program established in RSA 189:54. This appropriation shall be nonlapsing. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

III. The sum of \$250,000 is appropriated to the department of education for the biennium ending June 30, 1989, for the purpose of funding the dropout prevention programs referred to in RSA 189:55. This appropriation shall be nonlapsing. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

12 Effective Date.

I. RSA 189:56, as inserted by section 3 of this act and section 11 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect July 1, 1989.

Amendment adopted. Ordered to Third Reading.

Senator Hounsell wished to be recorded as opposed.

SB 291, relative to refund of insurance premiums. Ought to Pass with Amendment. Senator Freese for the Committee.

SENATOR FREESE: This bill as amended, which you will find on page 6 of calendar #8, requires any insurance company that owes a person the refund on an insurance premium, to pay that refund within 30 days in certain cases and 45 days in other cases. It also provides for interest, at the legal rate of 10%, to be paid to the insurer, if the refunds are not made on truly timely basis. The bill also provides for cases where the amount of refund is in a bonafide dispute of where the final premium amount is subject to audit or other adjustments in accordance with policy provisions which can happen in an industrial policy or a commission policy, shall be refunded not until the dispute is resolved or the audit or other adjustment of the premium is completed. The proposed legislation is the result of complaints that the insurance companies were taking certain cases six months or more to make refunds of premiums to the consumers. The Senate Committee on Insurance recommends passage as amended.

AMENDMENT TO SB 291

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Refunds Required to be Paid within Specified Period. Amend RSA 402 by inserting after section 79 the following new section:

402:80 Insurance Premium Refunds. Whenever a person is owed a refund on an insurance premium paid for insurance coverage, the insurance company shall pay such person the refund within 45 days of the date upon which the refund becomes due or within 30 days of the date the refund becomes due in the case of private passenger automobile or domestic fire or homeowners coverage. When an insurance policy is cancelled by an insured, a refund shall become due upon receipt by the company or its agent of the policy to be cancelled or a signed lost policy release, or the date the company or agent receives the cancellation request from the insured which has been submitted in accordance with provisions of the policy or statute. When an insurance policy is cancelled by an insurer, a refund shall become due upon the date of cancellation as stated in the notice of cancellation. For any refund which is not paid within the specified period, the person to whom the premium is owed shall be entitled to interest beginning on the first day after the expiration of the period, at the legal rate. In cases where the amount of refund is in bona fide

dispute or where the final premium amount is subject to audit or other adjustment in accordance with policy provisions, the refund shall not become due until the dispute is resolved or the audit or other adjustment of premium is completed and the final amount of the premium has been determined.

2 Premiums and Refunds. Amend RSA 408-A:8, II to read as follows:

II. Each individual policy, group certificate or notice of proposed insurance shall provide that in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for insurance shall be paid or credited promptly to the person entitled thereto within 30 days from the termination of the insurance; provided, however, that the commissioner shall prescribe a minimum refund and no refund which would be less than such minimum need be made. The formula to be used in computing such refund shall be filed with and approved by the commissioner. For any refund which is not paid within this 30-day period, the person to whom the premium is owed shall be entitled to interest beginning on day 31, at the legal rate.

3 Return Premiums. Amend RSA 415-B:10 to read as follows:

415-B:10 Return Premiums. Whenever a financed insurance contract is cancelled, the insurer shall return whatever gross unearned premiums are due under the insurance contract to the premium finance company for the account of the insured or insureds as soon as reasonably possible, but in any event, within [60] 30 days after the effective date of cancellation. In the event that a crediting of return premiums to the account of the insured results in a surplus over the amount due from the insured, the premium finance company shall refund such excess to the insured provided that no such refund shall be required if it amounts to less than \$1.

4 Effective Date. This act shall take effect January 1, 1989.

Amendment adopted. Ordered to Third Reading.

SB 354-FN, establishing a Connecticut River bridge commission. Ought to Pass with Amendment. Senator Bond for the Committee.

SENATOR BOND: There are thirty-three bridges across the Connecticut River between Vermont and New Hampshire. As a percentage of the bridges in the State they are in better condition than most, but when there are problems there are frequently communication difficulties between our needs in New Hampshire and Vermont's needs. The highway departments, themselves, get along but there are certain political obstacles. The State of Vermont is consid-

ering similar legislation to this, it is to facilitate cooperation between the States on bridge issues and we urge your support.

The amendment you will find on page 15 deals with the composition of the commission. The commissioner of Transportation testified and was very supportive of this approach to a facilitating committee.

SENATOR DUPONT: Senator Bond, I guess my question would be, first off, why do we need 33 bridges into the State of Vermont? I have never found a reason to cross one of the bridges to go over there because I think New Hampshire is a much nicer State. Secondly, I am told by a very, very well informed source, that we own the bridges all the way to the other bank and I just want to know the history on how we got taken on that deal?

SENATOR BOND: Your last question first. We asked to be taken on that by going to the Supreme Court and challenging the claims of the State of Vermont to part of the river, so that is how we inherited everything to the high water mark on the other side. Some of the bridges are privately owned or are toll bridges, some are under specific agreements between towns on either side of the river.

AMENDMENT TO SB 354-FN

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a Connecticut River bridge advisory commission.

Amend the bill by replacing all after the enacting clause with the following:

1 Purpose. The purpose of this legislation is to establish an advisory commission to facilitate interstate cooperation with regard to the bridges over the Connecticut River.

2 Advisory Commission Established; Terms; Duties.

I. There is hereby established a Connecticut River bridge advisory commission, consisting of the following 5 members: the commissioner of the department of transportation or his designee; one member of the senate or his designee, appointed by the senate president; one member of the house of representatives or his designee, appointed by the speaker of the house; and 2 members of the general public, appointed by the governor and council.

II. The commissioner of transportation or his designee shall be a voting member and shall serve as commission chairman. Three members of the commission shall constitute a quorum. The legisla-

tive members shall serve terms coterminous with their legislative terms, and the public members shall serve 4-year terms from the date of their appointment. Vacancies on the commission shall be filled in a like manner, for the unexpired term. The commission shall meet at the call of the chairman.

III.(a) Although the state of New Hampshire is the primary owner of the bridges spanning the Connecticut River between this state and the state of Vermont, the bridges are of mutual benefit to the citizens of Vermont and New Hampshire. Therefore, the commission shall attempt to negotiate a cost-sharing agreement with the appropriate officials of the state of Vermont for any reconstruction or rehabilitation that may be required for any of the bridges between the 2 states.

(b) If tolls are collected on any of the bridges made a subject of a cost-sharing agreement with the state of Vermont, the commission may offer the state of Vermont a reasonable share in the toll receipts consistent with Vermont's contribution to the overall reconstruction or rehabilitation costs.

(c) The state's sovereignty over any of the bridges shall not be relinquished in any cost-sharing agreement that may be achieved.

(d) On or before December 1 on an annual basis, a report on the activity of this advisory commission shall be submitted to the president of the senate and the speaker of the house of representatives. A copy of the report shall be sent to the governor and council.

IV. The legislative members of the commission shall be entitled to legislative mileage in connection with commission duties. The other commission members shall be entitled to reasonable expenses in performing commission duties. The non-legislative expenses shall be a charge against the highway fund.

3 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted. Ordered to Third Reading.

SB 333, relative to Justices of the Peace. Ought to Pass with Amendment. Senator Chandler for the Committee.

SENATOR CHANDLER: The amendment to this bill is in calendar #8 and it starts on page 10. This bill is largely a housekeeping bill and was put in at the request of the Secretary of State and concerns the Justices of the Peace, which does not have much law on a subject at the present time. There have been certain things that the justices have been doing but are not in the statutes. So, the Secretary of State thought that some of them should be spelled out in the stat-

utes, and there should be some control over who became a justice. Now, as it is in the present time, anybody in the state with \$30 can become a Justice of the Peace. The amendment also has some other features to it concerning other things that come under the jurisdiction of the Secretary of State. The first part of the amendment, the present law says that the Notary Publics and Justices of the Peace, actually, would be appointed by the Governor with the advice of the Executive Council. That is the way it has been for years but, we thought it should say with the advice and consent of the council. Most of the laws say, advice and consent of the council so we just added the consent in there. Another thing they dealt with a notary public, the notary public has to be endorsed and his application signed by two other existing notary publics plus one other citizen of the state, have three people that sign to them which more or less attests to his good character. Further on it states, now most notary publics have a seal which they use, but nowhere in the laws does it say they have to have a seal. So, we are putting in the person acting as notary public has to, must have, a seal and must use the seal. When a person gives up being a Justice or Notary Public or moves out of the State, at the present time it says, that he is supposed to turn his records over to the Secretary of State within six months of leaving. Actually, Notary Publics really don't have any records anyway, but if they did have any and they turn them over to the Secretary of State he would just sit on them for six months and take up a lot of space. So, the Secretary of State says let's cut that time down from six months to three months so we wouldn't have to hang onto the records, which probably don't exist anyway. Another thing was, that if a person becomes a Justice or Notary would have to be a resident of the State for three years. The way it is now a fellow can move up from Massachusetts and the next day could pay \$30 and the Governor and Council could make him a Notary Public. The Secretary felt that that there ought to be a little bit of time that he should be here because people would know him and find out about him and maybe they could check on his past record if he had any. One of the sections in here says that the Secretary of State shall have authority to employ such additional assistance that may be required to carry out the provision of the election laws and all necessary expansions therefor shall be paid by the state. All full time employees and officials of this department shall be eligible for annual sick leave, which they are not at the present time. State employees are eligible for sick leave, but people working for the Secretary of State, who is a constitutional officer, at the present time they don't have any sick leave. We felt that they should have just like any other person.

AMENDMENT TO SB 333

Amend the title of the bill by replacing it with the following:

AN ACT

relative to notaries public, commissioners of deeds,
justices of the peace, the department of state,
and emergency interim succession.

Amend the bill by replacing all after the enacting clause with the following:

1 Change of Title; Add Justices of the Peace. Amend the title of RSA title XLII to read as follows:

NOTARIES, COMMISSIONERS OF DEEDS, JUSTICES OF
THE PEACE, AND ACKNOWLEDGEMENTS

2 Appointment of Notaries. Amend RSA 455:1 to read as follows:

455:1 Appointment. Notaries public shall be appointed by the governor, with advice and consent of the executive council, and shall be commissioned for 5 years.

3 Application for Position of Notary. RSA 455:2 is repealed and reenacted to read as follows:

455:2 Application. Any person applying to be a notary public shall have been a registered voter in this state for at least 3 years immediately preceding the date of application. The applicant shall sign a written statement under oath as to whether he has ever been arrested or convicted of a crime that has not been annulled by a court, other than minor traffic violations. The applicant shall be endorsed for appointment by 2 notaries public and a registered voter of this state.

4 Competency of Notaries. Amend RSA 455:2-a to read as follows:

455:2-a Competency. It shall be lawful for any notary public or any other officer authorized to administer an oath or take an acknowledgment or proof of an instrument or make protest, who is a stockholder, director, officer or employee of a bank or other corporation, to take the acknowledgment of any party to any written instrument executed to or by such corporation, or to administer an oath to any other stockholder, director, officer, employee or agent of such corporation, or to protest for nonacceptance or nonpayment bills of exchange, drafts, checks, notes and other negotiable instruments which may be owned or held for collection by such corporation; provided it shall be unlawful for any notary public or other officer authorized to administer an oath or take an acknowledgment or proof of an instrument or make protest, to take the acknowledgment of an

instrument executed by or to a bank or other corporation of which he is a stockholder, director, officer or employee, where such notary or other officer is a party to such instrument, either individually or as a representative of such corporation, or to protest any negotiable instrument owned or held for collection by such corporation, where such notary or other officer is individually a party to such instrument. No person acting in the capacity of notary public shall notarize his or her own signature. This section shall not be construed to imply that the acts herein made lawful may heretofore have been unlawful, and no instrument heretofore acknowledged or notarized before a notary public or other officer who would have been competent to act under the terms hereof shall hereafter be impugned or invalidated on the grounds that such notary public or other officer was incompetent to act.

5 Powers of Notaries. Amend RSA 455:3 to read as follows:

455:3 Powers. Every notary public, in addition to the usual powers of the office, shall have the same powers as a justice of the peace in relation to depositions and the acknowledgment of deeds and other instruments and the administering of oaths. All acknowledgements made by a notary public shall be under an official seal.

6 Notarial Records. Amend RSA 455:5 to read as follows:

455:5 Deposit of Records. Whenever a notary shall remove from the state, resign or from any cause cease to act in that capacity, he shall, within [6] 3 months thereafter, deposit all his notarial records and all papers filed in his office in the office of the secretary of state.

7 Custody of Notarial Records. Amend RSA 455:9 to read as follows:

455:9 Custody of Records. All notarial records and papers shall be kept by the secretary of state safely and in such manner that reference thereto may easily be had[, and] for a period of 3 years. These records shall be open to the examination of any person interested therein.

8 Appointment of Commissioners. Amend RSA 455:12 to read as follows:

455:12 Appointment. The governor, with advice and consent of the executive council, may appoint, in each state, district and territory of the United States, and in each foreign country to which the United States sends a representative, a commissioner or commissioners, to continue in office 5 years.

9 Commissioners' Oaths. Amend RSA 455:13 to read as follows:

455:13 Oath. Before any commissioner shall perform any duty of his office, he shall take and subscribe an oath, before a judge of some court of record, that he will well and faithfully perform all the duties

of the office, which oath shall be filed by him in the office of the secretary of state within [6] 3 months after taking the same.

10 New Chapter; Justices of the Peace. Amend RSA by inserting after chapter 455 the following new chapter:

CHAPTER 455-A JUSTICES OF THE PEACE

455-A:1 Appointment. Justices of the peace shall be appointed by the governor, with the advice and consent of the executive council, and shall be commissioned for 5 years, as provided in the New Hampshire constitution.

455-A:2 Application. Any person applying to be a justice of the peace shall indicate on the application whether he or she has been a registered voter in this state for at least 3 years immediately preceding the date of application. The applicant must sign a written statement under oath stating as to whether he has ever been arrested or convicted of a crime that has not been annulled by a court, other than minor traffic violations. The applicant shall be endorsed for appointment by 2 justices of the peace and a registered voter of this state.

455-A:3 Powers. Every justice of the peace shall have the power to administer oaths, perform marriage ceremonies, acknowledge instruments, and any other power prescribed by law.

11 Department of State; Assistance. Amend RSA 5:6-b to read as follows:

5:6-b Assistance; Benefits. The secretary of state shall have authority to employ such additional assistants as may be required in carrying out the provisions of the election laws, and all necessary expense thereof shall be paid by the state. All full time employees and officials in this department shall be eligible for annual and sick leave.

12 Emergency Interim Successors. Amend RSA 108-A:5 to read as follows:

108-A:5 Recording and Publication. Each designation of an emergency interim successor shall become effective when the legislator making the designation files with the secretary of state the successor's name, address and rank in order of succession; provided, however, that no person shall be designated who is currently a member of the general court, or who holds an incompatible office under the constitution or laws of this state. The removal of an emergency interim successor or change in order of succession shall become effective when the legislator so acting files this information with the secretary of state. All such data shall be open to public inspection.

13 Fee for Solemnizing. Amend RSA 457:33 to read as follows:

457:33 Fee for Solemnizing. The persons joined in marriage by a minister or justice of the peace shall pay the minister or justice a minimum of \$5.

14 Effective Date. This act shall take effect October 1, 1988.

Amendment adopted. Ordered to Third Reading.

SB 295, relative to a guardian's authority to remove life support of his ward. Interim Study. Senator Podles for the Committee.

SENATOR PODLES: SB 295 prevents a guardian from giving his consent to withdrawal of life or medication without an order of probate court, unless withdrawal is authorized by the ward through a living will. The bill as written presents problems and is recommend for interim study by the committee.

Adopted.

SB 340, prohibiting corporal punishment of children in any child caring or child placing agency licensed by the state. Ought to Pass with Amendment. Senator Podles for the Committee.

SENATOR PODLES: SB 340 prohibits corporal punishment of children in any child caring or child placing agency licensed by the state. The bill also prohibits the use of corporal punishment in all schools and institutions which are subject to approval by the state department of education. The amendment, which is on page 11 of calendar #8, takes out the word spanking, from the original bill. I would urge you to defeat the amendment that goes along with the bill that is in the calendar and I would like to substitute a floor amendment.

Amendment failed.

Senator Podles offered a floor amendment.

SENATOR PODLES: You have an amendment that has been passed out and all it does is add the word spanking.

We have 53 Christian Schools in New Hampshire, we have received testimony from two of those Christian schools. One of them has an enrollment of over 200 children and the other Christian school has an enrollment of over 100 children, which together is over 300 children. They have come in and they were against the word spanking in the original bill and have asked that it be removed. I am putting spank-

ing in the amendment that you have just received because I just feel that using a ping pong paddle, two or three times, to discipline a child in school is wrong. The other Christian school came in and told us that they use a rod, a long narrow stick like a ruler but larger depending on the size of the child. For a fifteen year old child, the rod is larger, they called this the "rod of God". You know, I know that we can not legislate what parents do at home, but we can certainly legislate what is done in the schools. I just feel that it teaches violence and it's not favored because it teaches that violence is the way to get things done and it leads to violence when they become adults. If you spanked your dog with this ping pong paddle, you would, in fact, be taken into court and charged with a misdemeanor. If you did that to a dog, with a rod, you would be in the same predicament. I would urge you to keep the word spanking in the bill.

SENATOR DUPONT: I rise in opposition to the floor amendment to SB 340 and urge defeat of this amendment. I don't think there are too many bills that come before this body that relate to children in our State that don't have the total support of myself and many members of the Senate. However, I look at this bill and I look at our school system and our ability in our attempt to bring our schools back in to order and the lack of discipline that presently exist in our classrooms. I see this as another attempt to further degrade the ability of our schools to cope with the children in the schools. I guess, I would use as an example, in this bill it refers to shaking, or shoving, or spanking and Senator, I'd like to ask you how you would take a group of second graders and get the whole classroom to sit down without maybe prodding one along a little bit in moving him to his seat? I know that's not the intent of this bill, to prevent that, but when you look at where it says, other forms of aggressive contact or requiring or forcing a child to take an uncomfortable position; having to take a test was an uncomfortable position for me. I look at this bill and I say to myself, the intent of it is so unclear. If the intent was to prevent someone from taking a rod to a child in school, then that's fine and you say that. What you don't say here is what you're really trying to do. It goes on to say, requiring or forcing a child to repeat physical movements. Every day they get to repeat standing up to pledge the flag, is a sixth grader or a seventh grader going to say they don't want to pledge the flag any more because that's a repeated movement? I mean, it's just so vague and I think it does infringe upon the ability of a teacher to have control in his classroom. I think it would be used by someone in this state to give someone in our classroom a tough time, and also by kids, who are smart enough to pick this up, and say, hey here's another hole that I can

climb out of to get to do in the classroom what I want to do and not what the teacher would require me to do.

SENATOR WHITE: Senator Dupont, I don't know if you've been following it but, I've been following the career of Joe Clark down in New Jersey and don't you believe that with this bill he probably would not be able to get the discipline and that the children have fallen in line with it? It's the threat of it, it's not the follow through of it.

SENATOR DUPONT: Senator, I agree with you and perhaps what we should do is turn this around and make this so students can't do this to teachers. Because I think that the behavior that this bill describes is more commonly found in the kids behavior towards their teachers rather than from the teachers to the kids.

SENATOR WHITE: Good point.

SENATOR PODLES: Senator Dupont, you mentioned all these things, shaking, shoving, and so on, that is in relation to disciplining a child. Would you believe that I think you can discipline a child without shoving and shaking and pushing and having her or him sit in an uncomfortable position, would you agree?

SENATOR DUPONT: Senator, all I would say is that when I was in seventh grade I got a good shaking from a teacher and it took me about six months to forget it so perhaps it put me back on the right track. I really don't think that what you're trying to do here is really the intent of what you really want to do. I think that you can address the problem that you have without going into such detail of what's allowed and what's not allowed. I just don't feel that it's necessary.

SENATOR HOUNSELL: I rise in opposition to this amendment and to the passage of this bill in any form. Two reasons; number one, it is not needed and two, it's not wanted. Senator Podles has a fine history in legislative record of caring for children of this State and she's to be commended for that. I know that Senator Podles sincere concern is for children, there's no doubt of that in my mind. I also believe that she'd be quite adept at disciplining children without using force. I believe that she has that ability and that ability to communicate to children. I think that to stand up against this bill is not to stand up in favor of abusing children or beating them with a stick, because I too, believe that that does not have a frequent place and should not occur that often. However, this bill is not needed because, if that does occur, if children or if anyone else, is assaulted with a

stick or a rod or a bat or anything else, they have recourse under our present law. But more importantly to that, is the second objection that I have and that is that this bill is not wanted. I do not hesitate a bit to stand here and tell you that the vast majority of the people in this State would object to the passage of this bill. I have had a call today from a Christian school, who does have objection to this, and I would contend that there's a separation of church and state issue here. It does bother me to hear the misconceptions and confusions about a corporal punishment form of discipline. There is a place for corporal punishment but that doesn't mean that that allows for assault and violence and physical abuse. So, I stand in opposition to this and I hope that the Senate would have the good sense to defeat this amendment.

SENATOR DISNARD: I must oppose this bill and I really regret it because Senator Podles really is concerned about youngsters. I can understand Senator Podles concern about types of discipline that may be used, such as squatting and this. But, when I read this bill, especially the fact that says prohibiting corporal punishment. In our schools today there are fights, there are times when gangs get together, there are times when a teacher or a principal has to grab somebody by the arm, has to encourage them to move along to go to another part of the building, for that particular reason, and I regretfully say, I have to disagree because I think it will harm our schools. Maybe it could go to some type of study and then work it out so those extenuating experiences could be handled.

SENATOR PRESTON: With all due respect to Senator Podles, I must also disagree and oppose the bill as it stands before us. I don't wish to make light of this bill, but with a brief consultation with Senator Hough, Senator Blaisdell, Senator Dupont, Senator St. Jean and myself, five minutes ago we found out that we were physically abused as students in the schools by the nuns. A bill such as this could have placed half of them in jail. I think the Department of Education has a rule prohibiting corporal punishment, but if this bill was in force when most of us were in school, I know there was a lot of aggressive shaking, pinching, twisting, pulling and other forms of corporal punishment, which I disagree with but at the time I did deserve them and I was so intimidated I didn't dare tell my mother because I knew she'd do the same or more when I got home. Frankly, Senator, I don't see where the problem exists and I think that the department is taking care of it and I think it could create more problems then you're attempting to resolve. I also recognize

your efforts in behalf of children, but I think you've gone a little overboard on this one and I respectfully request we vote it down.

SENATOR MCLANE: I think it's important to remember about this bill that first of all, that it is a rule now and the intent of the bill is to make it into law. By not passing this bill today, we are saying that the Senate of the State of New Hampshire agrees that a teacher, and remember it's just a teacher, you can do what you want to your own kids until they have marks of abuse in which case you will go into court. But, this is people who we entrust our children to and they are not allowed now, under rule, to do these things and what Senator Podles is saying is that it would give the rule the force of law. Again and again you've said, you know I was beaten as a child and look at how beautifully I've turned out, says Jack. I feel very strongly that if anyone laid a hand on my kid in the school system, I would be very angry because I don't think that's some else's privilege. The school systems appeared in favor of this bill. The teachers don't want to beat up kids, and to allow it to happen in any Christian school, I think, reflects badly on all of us and on my concept on Christianity. I think that if the Senate does not pass this bill today, we are making a statement about child abuse and it is a bad statement. I had a telephone call at seven thirty this morning from one of our State workers who deals with child abuse and this man was almost in tears on the phone, and he said if you could see what I see, you wouldn't think of not passing this bill.

SENATOR DUPONT: Senator, I guess my question would be is if there's a rule in place already and I know putting it into law might do something for the rule that isn't present there today, but if there's an existing problem, the department has the rule and can enforce the rule, why do we need a law?

SENATOR MCLANE: Because, if the rule is broken you don't have the force of law to go into court. If you have a teacher, who is beating a child with a stick, making bruises and welts on that child's body, if you have that, right now it does not have the force of law and so I think that the teachers who don't want to do this, most of them, and certainly law enforcement people that deal with child abuse. It's sending a signal to the schools which is, that the way to get compliance is not to beat someone.

SENATOR DUPONT: I guess I would just ask the same question of you that I indicated to Senator Podles; what you say you're trying to do here and what you're actually doing with this piece of legislation

are two different things. If you had said in here, what you just indicated to me, was the intent of the committee then that's one thing, but what we're not passing here is a bill that prohibits from beating kids with kids. We're passing a law that basically goes across the whole spectrum of the teacher's ability to manage a classroom.

SENATOR MCLANE: I think that a tragic thing to say, that a teacher has to hit a child in order to manage a classroom and that's just what you're setting up but not passing this bill. You're saying the only way to get someone to behave is to hit them and that is what this bill speaks to.

SENATOR NELSON: Senator Dupont, how do you feel if we deleted schools and left in child care or child placing agencies? It addresses the school system today but this also is child care or child placing agencies. I wonder if you might reflect on that.

SENATOR DUPONT: Well, Senator, I think the same standards should apply for anyone that has to deal with children, whether it be a day care center, be a school or whatever. But, I think what I object to, and I certainly don't want to stand here on the floor that I approve of anyone hitting a child because I don't, but I think that when you pass legislation that is so vague to it's meaning that say aggressive contact, which in interpretation can be many things to you and many things to me, can go on to say, shoving, twisting, I mean there's nothing that I can hang my hat on in here that I could say that I could defend the actions if I was a teacher, of what I do in my classroom. Because anything, any movement, towards a student could be construed as an aggressive act on my part.

SENATOR NELSON: Senator Dupont, would you believe that the elementary standards in this State are done by the rules and not the laws?

SENATOR DUPONT: Yes, Senator. I believe and in this particular case, I think we put a lot of emphasis on the rules structure in this State because it gives our professionals in State government the ability to manage and also to react to changes in our environment on a daily basis.

SENATOR HOUGH: Senator Podles, seriously now, I'm not clear on exactly what it is we're doing and I do very much want to understand it and cast my vote knowing what we're saying. Presently, in the statutes and the books in the State of New Hampshire is, num-

ber one, a prohibition against using corporal punishment in schools, I would assume those recognized by the Department of Education under various criteria?

SENATOR PODLES: No.

SENATOR HOUGH: So, there is nothing in the law that prohibits corporal punishment?

SENATOR PODLES: No, there isn't.

SENATOR HOUGH: Nor is there a definition in the law, of what corporal punishment is?

SENATOR PODLES: Not to my knowledge, Senator.

SENATOR HOUGH: You are saying that these various elements comprise corporal punishment?

SENATOR PODLES: Yes.

SENATOR HOUGH: And you're saying that the law will prevent the use of corporal punishment?

SENATOR PODLES: Yes.

SENATOR HOUGH: Wanting to not allow corporal punishment to be used against children, I would want to support your amendment, which defines what it is and support the bill that puts in statute the prohibition of it's use. Is that correct?

SENATOR PODLES: Yes. First of all, the only current law regarding corporal punishment is a New Hampshire code of administrative rules and this rule has the force of law, regarding corporal punishment, prohibiting it in the New Hampshire schools. But, outside of that, we have 53 Christian schools in New Hampshire. We have 132 nonpublic schools, we have 36 special ed schools that are not under this rule, and we have 170 private schools. So, there are hundreds and hundreds of children that we should be concerned about and this is what I'd like to bring out.

SENATOR BLAISDELL: Senator McLane, you never knew Sister Rose, or Sister of the Lords, or Sister Gerald, did you ever know any of those fine women?

SENATOR MCLANE: No, but they must have done a wonderful job with you Junie.

SENATOR BLAISDELL: They did, except with my nose. We sat in this same chamber a few years ago when the 'belt the brats' bill came in, under the late Bob Monier. I remember, and I just tried to clarify it it now under 169 of the child abuse under the juvenile justice code, doesn't this cover what we're talking about today. Isn't that covered under that law?

SENATOR MCLANE: No, it isn't and I think this is very important to say that the child abuse statutes cover a physical manifestation or a proven abuse and what they say is, that you can not belt a brat, as the statute was called. What Senator Podles has made very clear is that the administrative rules that carry that into the schools do not apply to all the rest of these child placing agencies and I think that is the reason for the legislation before you.

Roll Call requested by Senator McLane.

Seconded by Senator Freese

The following Senators voted yes: Hough, Roberge, Pressly, Charbonneau, McLane, Podles and Krasker.

The following voted no: Bond, Hounsell, Heath, Freese, Dupont, Chandler, Disnard, Blaisdell, White, Nelson, Johnson, Stephen, St. Jean, Torr, Delahunty and Preston.

7 Yeas

16 Nays

Floor amendment failed.

Senator Dupont moved to substitute indefinite postpone.

Adopted.

SB 266, granting immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of non-profit organizations or governmental entities. Inexpedient to Legislate. Senator Podles for the Committee.

SENATOR PODLES: SB 266 grants immunity from personal civil liability to volunteers working on behalf of non-profit organizations and this is a bill that we've been working on for a long time in trying to do something. However, this bill is a very broad bill and it grants blanket immunity to a lot of organizations and that could create problems. The House has set up a special committee to study this issue and there will be a bill coming out. The committee recommends inexpedient to legislate.

Division Vote:

14 Yeas

8 Nays

Adopted.

Senator Roberge wished to be recorded as in favor of passage of SB 266.

SB 269-FN, relative to indoor air quality in certain state buildings. Ought to Pass with Amendment. Senator Krasker for the Committee.

SENATOR KRASKER: SB 269 is relative, as you can see, to indoor air quality in certain state buildings and I emphasize the word "state buildings". In our budget last year the capital budget committee appropriated almost 3 million dollars to correct a terrible problem of air quality in the health and welfare building. This bill is perspective and will insure that this doesn't happen in the future, in state buildings that are being used for office space. We, in the committee, amended the bill so you can look at that amendment, because it was our feeling that the bill was probably too open-ended and didn't take care of hardship cases or emergency cases. The bill as amended exempts renewals of leases, it doesn't apply to retail space, only office space. It exempts the university system. It provides waivers for hardship and it would establish public health as the agency that would be developing the standards with the consultation of the Department of Labor. That seemed to be a compromise solution that met the needs of those who wanted to see this enacted into law and also some of the objections that the bill, as it was worded, was so restrictive that it wouldn't provide for emergencies. I would urge adoption.

AMENDMENT TO SB 269-FN

Amend the bill by replacing all after the enacting clause with the following:

1 New Chapter; State Buildings. Amend RSA by inserting after chapter 10 the following new chapter:

CHAPTER 10-A CLEAN INDOOR AIR IN STATE BUILDINGS

10-A:1 Definitions. In this chapter "clean air" means the standards set by the division of public health services, department of health and human services, in consultation with department of labor.

10-A:2 Clean Air Required.

I. The director of plant and property management, department of administrative services, or any other state agency authorized to build, acquire, or lease office space, shall require that, after January 1, 1989, any new state building, any existing building acquired by the state, any initial lease of a state building by the state, or any building bequeathed to the state shall meet clean air standards before it may be used for any state purposes, other than storage.

II. The division of public health services, department of health and human services, shall be responsible for certification in writing to the director of plant and property management or other appropriate state agency head that the buildings listed under paragraph I meet the clean air standards.

III. Any person entering into an initial lease for any building listed under paragraph I which does not meet the clean air standards may terminate such lease.

10-A:3 Rulemaking.

I. The director of plant and property management shall adopt rules, under RSA 541-A, relative to:

(a) Content and format of any forms necessary under RSA 10-A:2, I.

(b) Manner of acquiring certification from the division of public health services.

(c) Any other matter necessary to the administration of this chapter.

II. The director, division of public health services, after consultation with the commissioner of labor, shall adopt rules, under RSA 541-A, relative to what constitutes the clean air standard.

III. The director, division of public health services shall adopt rules, under RSA 541-A, relative to:

(a) Content and format of any forms necessary under RSA 10-A:2, II.

(b) Certification procedures.

(c) Any other matter necessary to the administration of this chapter.

10-A:4 Exceptions.

I. This chapter shall not apply to the university system of New Hampshire.

II. The governor and council, upon recommendation by the director of plant and property management or other state agency authorized to build, acquire, or lease office space, may suspend the enforcement of all or part of this chapter or any rule adopted under it upon finding that an emergency or hardship exists which makes compliance with the provisions of this act unfeasible.

2 Effective Date. This act shall take effect January 1, 1989.

Amendment adopted. Ordered to Third Reading.

SB 283, relative to protective services for adults. Ought to Pass with Amendment. Senator Bond for the Committee.

SENATOR BOND: SB 283 clarifies and makes reference changes in RSA 161:D relative to protective services for adults. It expands the definition of abuse to include emotional, physical and sexual abuse. It adds a definition describing self neglect by an incapacitated adult. It adds a definition describing incapacitated and allows the director of elderly and adult services to request a written report after the director receives an oral report of adult abuse. It excludes the alleged perpetrator from the immunity from liability provision if the perpetrator reports his own abuse. It adds a confidentiality provision to protect the victim of the alleged abuse and it provides for a religious exclusion.

Amendment to SB 283

Amend the bill by replacing section 18 with the following:

18 New Sections; Self-Neglect; Exception. Amend RSA 161-D by inserting after section 2 the following new sections:

161-D:2-a Self-Neglect. For the purposes of this chapter, instances of suspected self-neglect shall be construed and acted upon in the same manner as instances of suspected neglect.

161-D:2-b Exception. Nothing in this chapter shall be construed to mean a person is abused, neglected, exploited, or in need of protective services for the sole reason that he relies on or is being furnished treatment by spiritual means alone through prayer in accordance with the tenets and practices of a church or religious denomination of which he is a member or adherent.

19 Effective Date. This act shall take effect 60 days after its passage.

Amendment adopted. Ordered to Third Reading.

SB 293-FN, relative to asbestos management. Ought to Pass. Senator White for the Committee.

SENATOR WHITE: SB 293-FN basically just expands the definition in regards to asbestos of basement in school buildings. It certifies the employees of the people that are removing the asbestos. Currently there are 35 states that already do this. It brings it into compliance with the federal regulations.

Adopted. Ordered to Third Reading.

SB 280-FN-A, changing the rate of the real estate transfer tax. Interim Study. Senator Roberge for the Committee.

SENATOR ROBERGE: The committee voted this bill out interim study. Since it falls in the middle of the biennium session, the sponsors of the bill were in favor of this action also. Withdrawing funds when they are already committed during a biennium is inappropriate and the committee feels by putting this bill into interim study, it will give the committee time to study it and present it in the 1989 session.

Adopted.

Recess

Out of Recess

Senator Dupont in the Chair.

SB 305-FN, relative to pari-mutuel pools at dog races. Ought to Pass with Amendment. Senator Bartlett for the Committee.

SENATOR BARTLETT: This bill deals with the pari-mutuel pool and it reduces the take to the state from 4 to 3. It requires that 1% of the take from pari-mutuel pools at dog races be set aside for capital improvements and promotion of the tracks. Our records show, by the studies that were made by independent counsel, indicates that the income for dog tracks is diminished, the number of attendants is dramatically reduced and that apparently the same reduction has been money spent on maintenance and promotion. It was felt by this 1% commitment to these two projects, which will be held in a separate escrow account, and the expenditures from that account will be approved by the racing commission that we may be able to stay level or even start to improve the attendance and the take at the tracks. It was felt that our best interest would be served by becoming somewhat of a partner and to make sure that the tracks were kept in good condition, save and that they were well promoted as we promote our tourist industry. Yet, by requiring the escrow account, that when the monies were necessary they would be in the escrow account, and there wouldn't be any question about it. The money will be deposited in escrow daily, interest bearing, with the interest to go towards the total figure to use to promote capital improvements. The committee urges your adoption of the amendment.

AMENDMENT TO SB 305-FN

Amend the bill by replacing section 2 with the following:

2 New Paragraphs; Tax. Amend RSA 284:23 by inserting after paragraph II-a the following new paragraphs:

II-b. In addition to the payments provided for in RSA 284:23, II-a, a sum equal to 4 percent of the total contributions to all such pari-mutuel pools other than win, place, and show pari-mutuel pools shall be allocated as follows: (a) 3 percent to the state treasurer; (b) one percent to each licensee to be used for capital expenditures for alterations, additions, replacements, changes, improvements, or major repairs to or upon the property owned or leased by any such licensee and used for such dog races or to create a fund for advertising, promotional and marketing purposes, including reducing the costs of admission, programs, parking and concessions. A pari-mutuel licensee shall deposit such moneys received under subparagraph (b) in a separate interest-bearing account for each race track.

II-c. Prior to constructing any improvements upon the property used for racing by any such licensee, the licensee shall submit to the pari-mutuel commission a preliminary plan or sketch outlining the nature and extent of the proposed improvements. The commission may require such additional specifications and plans as may be necessary to satisfy itself that the proposed improvements are, in fact, of a capital nature as distinguished from deductible expenditures for maintenance and repairs. The commission shall return its findings to the applicant licensee within 30 days after receipt of final data necessary to make such judgment. The licensee may commence construction of the improvements upon receiving the commission's findings.

II-d. Before expending any funds for advertising, promotional, or marketing purposes each licensee shall file with the pari-mutuel commission, on the first day of January, April, July and October, its proposed advertising, promotional and marketing program for the ensuing quarter showing the allocation of the funds in percentage terms among the various purposes to be accomplished in that quarter.

II-e. Each licensee receiving the capital improvement and advertising, promotional, or marketing funds provided for in RSA 284:23, II-b shall account to the pari-mutuel commission annually as a separate supplement to its annual financial statement required under RSA 284:32-a. Each such supplement shall be separately certified by the licensee's certified public accountant and shall show in such detail as the commission may require, the itemized expenditures for the capital improvements approved by the commission under RSA

284:23, II-c. The supplement shall also show the expenditure for advertising, promotional and marketing funds substantially in accord with the quarterly outlines submitted to the commission under subparagraph II-d.

II-f.(a) Within 30 days after the effective date of this paragraph the legislative budget assistant holding office under RSA 14:30 shall engage a public accounting firm, which is not employed by any of the licensees under RSA 284, and which is qualified to conduct economic studies and analyses, to make an analysis of the pari-mutuel racing industry as conducted in the state of New Hampshire and to make a report not later than September 30, 1988, to the ways and means committee of the senate and the regulated revenues committee of the house of representatives. The report shall cover the following subjects and such other topics as the analysts may deem relevant to the successful operation of pari-mutuel racing:

(1) The impact of the gross revenue tax on the continued viability of the various types of pari-mutuel racing.

(2) A comparison of the takeout or commission and the tax on pari-mutuel racing in New Hampshire with the takeout or commission and taxes on pari-mutuel racing in other states.

(3) The extent to which state funds are made available in other jurisdictions to make capital improvements and promote pari-mutuel racing.

(4) A comparison of the funds made available by the state to promote activities under RSA 284:21-a through 21-s with funds made available by the state for the promotion of activities under RSA 284:22 and RSA 284:23.

(5) The effect of competition from racetracks in other New England states.

(6) A survey of the number of persons employed directly or indirectly in pari-mutuel racing in New Hampshire and the economic impact on the state and local economy.

(b) The cost of the study conducted under subparagraph (a) shall be a charge against the one percent fund created by RSA 284:23, II-b. Each licensee entitled to the fund shall bear its proportional share of the cost of such study. Expenditures of the study shall not exceed \$100,000.

Amend the bill by replacing section 4 with the following:

4 Effective Date. This act shall take effect upon its passage.

Amendment adopted.

Senator Blaisdell moved to suspend reference to Finance.

Adopted.

Ordered to Third Reading.

Recess

Out of Recess

Senator Bartlett in the Chair.

SB 314-FN-A, relative to pari-mutuel purse funds. Inexpedient to Legislate. Senator Roberge for the Committee.

SENATOR ROBERGE: This bill was introduced because it was intended to go back to the original, to take before the rules were suspended, to create a so called equal footing between Rockingham and Suffolk Downs. Since Suffolk Downs has gone out of the race track business and Rockingham no longer has that competition the committee agreed with the sponsor that this legislation is not needed.

Adopted.

SB 332, requiring local approval of applications to the liquor commission by its licensees and permittees to allow certain dancing and entertaining within their establishments. Inexpedient to Legislate. Senator Stephen for the Committee.

SENATOR STEPHEN: The committee voted this bill inexpedient to legislate. The bill would add a new section in the law, which would require the liquor commission to submit applications that they received from licensee or permittees that their respective establishments, to live dancing or entertainment. If the municipality objects for any reason, the request would be denied, like home rule. The committee consulted with the Attorney General's office and found that the best approach in this matter would be for the municipalities to create their own ordinances, by which the liquor commission would decline to approve licensees that are contrary to the local ordinances of favoring the home rule.

Adopted.

TAKEN FROM THE TABLE

Senator Preston moved to take SB 279 off the table.

Adopted.

SB 279, relative to motor vehicle emissions testing. Ought to Pass. Senator Pressly for the Committee.

Senator Pressly offered a floor amendment.

SENATOR PRESSLY: The reason for the delay on this bill, I believe, is a good one. As you know the emission testing procedure has begun for twelve communities. The people who have been involved in the construction of this bill are the seven Senators whose districts it affects. The transportation department, the automobile dealers, the local communities that have had to implement to this. This is not a debate on if we should have an emissions control. Since we have one already in place, we feel that we have put together a better system. This, with the concurrence of the department of transportation, will change the method that it has done. It will make it a sticker enforced system. This has been completely worked out by the department of transportation in conjunction with the EPA. This is an acceptable method of doing it, the department of transportation is willing to implement this. This has had the concurrence of all of the municipalities, in fact it has actually been the request of the twelve municipalities under which this law has imposed this type of fee. I hope that the Senate will accept this and I welcome any questions that you might have.

SENATOR STEPHEN: Senator Pressly, I am just looking through this, this refers to the eleven communities only?

SENATOR PRESSLY: That is correct. This changes what is already in law, it in no way increases it or decreases it. I know there are people who are considering changes, it is coming in other legislation. This is an effort that if we have to have it, none of us like to have it, but since we do have it, this is a way that the people that are having to enforce it they feel it will be easier for everyone involved to do it, it is better for the consumer to.

SENATOR DUPONT: Senator Pressly, I just want to make sure on this amendment. I notice Doug Patch has been floating around and has been working an amendment, and I know you are working with something in trying to come up with something that was acceptable and that they think is enforceable. This is it, this works and their people have no problem with it?

SENATOR PRESSLY: This has actually been composed by the department of transportation and it is response to the concerns that have come up. It is acceptable by the EPA and my understanding is

that everyone that has been affected by this legislation supports this methodology versus what is currently in the laws.

SENATOR DUPONT: Does this take away from the town clerks the problems that they have been having, is that the intent of this?

SENATOR PRESSLY: That is the intent of this. This is basically going to be a sticker enforce system, which is what everyone felt was where it should be.

SENATOR DUPONT: I want to commend the committee and yourself for doing this because I know it has been a tough, difficult problem to deal with and I think this is a solution.

Floor Amendment to SB 279

Amend the bill by replacing all after the enacting clause with the following:

1 Inspection. 1985, 403:4 is repealed and reenacted to read as follows:

403:4 Emissions Inspection Required. The director shall by rule designate a date no later than October 1, 1988, after which, except as otherwise provided in section 5 of this act and in addition to any other requirements for the inspection of motor vehicles, a motor vehicle safety inspection station approved to do inspections as required by RSA 266:1 shall not issue an inspection sticker to a private passenger vehicle which is to be registered to a person whose primary residence is within the city of Nashua or the towns of Hollis, Merrimack, Litchfield, Hudson, Milford, Amherst, Pelham, Londonderry, Derry, Windham or Salem, unless excluded after completion of the study required by section 2 of this act, or unless the owner presents a valid emissions waiver or the vehicle meets the emissions inspection requirements established by the director.

2 Penalties. 1985, 403:7 is repealed and reenacted to read as follows:

403:7 Penalty; Fraudulent Certificates and Acts. It shall be a violation for any person to:

I. Present a facsimile of an emissions waiver in order to obtain an inspection sticker.

II. Make, cause to be manufactured or issued or present, use, offer for sale, possess, sell or alter an unofficial or official emissions waiver.

III. Place an inspection sticker on a vehicle which has not been properly inspected in accordance with the emissions inspection re-

quirements of the director, or was not in condition to pass the emissions tests prescribed by the director.

IV. Issue or attempt to issue an inspection sticker or emissions waiver without being licensed by the director so to do.

3 Inspection Rules. 1985, 403:8, II, is repealed and reenacted to read as follows:

II. The inspection of every private passenger vehicle of a person whose primary residence address is within the city or towns listed under section 1 of this act, except those vehicles exempted under section 5 of this act, in order to determine whether the vehicle complies with the standards adopted pursuant to paragraph I of this section. This shall include the method for indicating on the vehicle that it is registered to a person whose residence requires the inspection and that the vehicle has passed the emissions inspection, as well as a method for showing proof of successful completion of the emissions inspection to the station that is to place the sticker on the vehicle.

4 Station Rules. 1985, 403:8, V, is repealed and reenacted to read as follows:

V. Performance criteria for approval of emissions inspection stations and criteria for approval of emissions analyzers which are reliable and accurate for use by emissions inspectors. These rules shall be adopted after consultation with the division of air resources, department of environmental services. The rules shall, at a minimum, include procedures for an on-site inspection of an applicant's emission analyzer. No applicant possessing an emissions analyzer which produces accurate results and is in good working order shall be denied approval to be an emissions inspection station unless said applicant fails to meet other standards as set by the director; provided, however, that any applicant which applies to be an emissions inspection station on or after October 1, 1988, shall be required to have a computerized emissions analyzer.

5 Stickers. 1985, 403:9 is repealed and reenacted to read as follows:

403:9 Emissions Sticker Fee. A fee for emissions stickers shall be set by the director by rule pursuant to RSA 541-A for each sticker provided by the division to an emissions inspection station. All unused or spoiled stickers returned by the emissions inspection station or referee shall be refundable at the same rate.

6 Repeal. The following provisions are repealed:

I. 1985, 403:3, III, relative to definition of emissions certificate.

II. 1985, 403:6 relative to temporary registrations.

7 Effective Date.

I. Sections 3 and 4 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect October 1, 1988.

Floor amendment adopted. Ordered to Third Reading.

Senator Torr moved to take SB 303-FN off the table.

Adopted.

SB 303-FN, relative to a judicial service increment. Ought to Pass with Amendment. Senator Torr for the Committee.

AMENDMENT TO SB 303-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to a judicial service increment and
to the committee on judicial conduct.

Amend the bill by replacing section 2 with the following:

2 New Subdivision; Committee on Judicial Conduct; Proceedings Regarding Certain Complaints to be Made Public. Amend RSA 490 by inserting after section 29 the following new subdivision:

Committee on Judicial Conduct

490:30 Committee on Judicial Conduct.

I. The committee on judicial conduct shall make available to the public a copy of the complaint, the committee findings thereon, and a report of disciplinary actions taken with regard to a complaint; provided that the committee finds that the complaint was justified and that the person who is the subject of the complaint committed a violation of the Code of Judicial Conduct. The provisions of this paragraph shall apply only after the review process of the complaint is completed.

II. The committee on judicial conduct shall conduct a hearing within 90 days of its receipt of a complaint, unless the committee determines that a hearing is not necessary. Where the committee decides a hearing is not necessary, the committee shall make final disposition of the complaint within 90 days of receipt of the complaint.

3 Effective Date.

I. Section 1 of this act shall take effect July 1, 1988.

II. Section 2 of this act shall take effect January 1, 1989.

Amendment adopted.

Senator Torr offered a floor amendment.

SENATOR TORR: The amendment before you, if you will look at the last sentence, will certainly clarify any question that you had. For the purpose of this section, each judges credible service shall begin on July 1, 1988. Therefor, there would not be any retroactive pay occurring.

Floor Amendment to SB 303-FN

Amend RSA 491-A:1-a as inserted by section 1 of the bill by replacing it with the following:

491-A:1-a Judicial Service Increment. The salary each full-time justice receives shall be increased by \$1,500 at the conclusion of the judge's second, fourth, sixth and eighth years of service as a full-time justice. For purposes of this section, each judge's creditable service shall begin on July 1, 1988.

Floor amendment adopted. Ordered to Third Reading

Senator Hounsell moved to take SB 264 off the table.

Adopted.

SB 264, prohibiting vehicles weighing more than a ton from traveling on old Route 104 in town of Alexandria. Inexpedient to Legislate. Senator Hounsell for the Committee.

Senator Hounsell moved to substitute ought to pass.

SENATOR DISNARD: Senator Hounsell, how would this affect emergency vehicles that need to pass on this road and are over a ton?

SENATOR HOUNSELL: It is my hope that this bill will be worked on in the House to address that. I can't answer that at this time.

SENATOR MCLANE: I speak in opposition to this bill. I was under the impression that Senator Hounsell was not going to bring this bill up because the people who asked him to sponsor the bill had not appeared. I have talked with the businessman that runs the plant that this bill is aiming at literally stopping. This is obviously a successful man who has put in a biomass plant in this area, the plant is now functioning. It seems a rather back-handed way to stop a business which is going forward at this time. As I talked with Mr. Williams on the phone, and he called me because he had never been involved with the legislative process, he was distressed at the bill,

he said that he had planned and is planning to have his vehicles go by another route, but the route is not completed yet. I really think it's a dangerous precedent for this Senate, to pass with so little discussion, a bill that is going to hurt a successful business that is functioning, that has met the requirements of the environmental standards, that has gone through the whole process, that is operating in the town of Alexandria and I do think it is a bad precedents.

SENATOR HOUNSELL: This bill is needed for the following reasons; yes, they have done a job on the Alexandria power plant, it is a fine job as far as it goes, but it is incomplete, Senator McLane. They have not made, I think, significant efforts towards using a proper route to get to and from the plant although they said they have. This bill is necessary to insure that they do do that. This plant is not faultless. This plant has not done everything on the up and up, in my opinion and the opinion of the people who live in this area, and these people are negatively affected by seven trucks an hour going by a rural district that is used for recreational use, including some fine fishing, jogging, and other things. In the winter time the road isn't wide enough and the reason that they are using old Route 104 is because it's the easiest, least expensive way for them to do it. If they were to sincerely make an effort towards going in the way that I believe is proper and that they may have told you they were going to do, I would agree with you. I think it is necessary to make sure that we protect the interest of the people who are affected by the introduction of this facility in their neighborhood. I don't think it is back-handed at all, I think it is proper, this would go to the House where they can address the issue and the people can continue to voice their concerns and their objections and hopefully work towards a solution. For that reason I ask that the Senate pass this at this time.

SENATOR BLIASDELL: Senator Hounsell, has this problem been brought up to the town, have they talked about it, have they discussed it in the town of Alexandria?

SENATOR HOUNSELL: Yes. It has been talked about quite a bit and there is mixed feelings depending on who you would talk to. I am comfortable with the position that I am representing, in that the people who have to live next to this plant, should have some sort of protection. I'm not saying this bill will do it but, this bill is a vehicle to insure that there is at least a way of meeting those concerns.

SENATOR BLAISDELL: Senator, would you believe that all the years that I have been here, I have always tried to go along with the Senator up in his district if he wants to accept the responsibility for

this type of legislation, then certainly I, as a Senator from District #10, am not going to step up in your area and tell you what to do. Isn't there any way that this could be amended to give them a certain length of time to get the road in and if not done then the road would be shut off?

SENATOR HOUNSELL: I think so, but I don't think we can do it in the Senate, given the time frame that we are under. I intend to work with the House committee. What I would say, though Senator, this is a political pop ball. No sensible politician would tackle this one, it's a no win situation. I think that these people who are living by this plant need to be afforded some sort of process that is lacking. Unless this legislation is kept alive, these people could be hurt.

SENATOR BLAISDELL: Senator Hounsell, will you guarantee me that certainly you will work with the House, if this bill is sent out of here to go to the House, and also contact this Mr. Williams that is involved in this plant that it has employees and certainly they are not hurt, I think that is something we have to be concerned with?

SENATOR HOUNSELL: I will work to make sure that the people of this area and the plant that is in this area can live harmoniously. To what that might require I can't guarantee at this point. I will tell you this, I will sit down with all parties to try to solve this problem, as I have in the past.

SENATOR MCLANE: Senator Hounsell, I know we just had a debate about big sticks and, from my conversation with you, you don't want the legislation. You just are looking at this as a man-size stick to hold over a businessman who has, as I say, followed the rules and built a business.

SENATOR HOUNSELL: Senator McLane, with all due respect, I don't think you are aware of the situation. There was a major problem that they had with this plant over a dredge permit that the Army Corp of Engineer came in and issued, after the plant came in an indicated that they would never go dredge permit. They say that they want to be a good neighbor, this is the way for them to be a good neighbor. I suppose if you want to call it a big stick, it might be, but I would like to think of it as an opportunity for the people to have some sort of say in the neighborhood that they lived in and have grown up in. I have no problem, I don't apologize for the introduction for this bill, nor do I say that this bill should, in it's final passage in the House, pass this way. It has to be kept alive and what I am saying now is, keep the bill alive.

SENATOR PRESTON: With all due respect to the Senator of District #2, one of his constituents, that requested this bill, wrote me a letter and asked me to support the bill but, to change the weight from 2,000 to 25,000 pounds. The Volkswagen Rabbit could go over but this lady owns a larger vehicle than that. In all due respect, I know that Senator wants to get it to the other House, vote the way you want. I just have to vote no because of the permitting process for the plant and so forth.

SENATOR CHANDLER: Senator Hounsell, does this one ton weight refer just to the vehicle or to the load or to both?

SENATOR HOUNSELL: Senator, the one ton weight should not become the final weight. This bill should not pass the way it is introduced but, this bill is a vehicle by which we can address the issues. Now, if there is another bill coming from the House, that I can look at then I will do it that way but, I just want you to realize that this bill is needed because of the people who are in this are who are being negatively affected by this project.

SENATOR CHANDLER: What are these trucks carrying?

SENATOR HOUNSELL: Woodchips.

Division Vote:	10 Yeas	12 Nays
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Motion Lost

Senator White moved to substitute inexpedient to legislate.

Adopted.

Senator White moved to take SB 324-FN off the table.

Adopted.

SB 324-FN, relative to dangerous dogs and amending the penalty provision relating to dogs which are a menace, a nuisance, or vicious. Ought to Pass with Amendment. Senator White for the Committee.

Senator White moved to substitute interim study.

Adopted.

Senator Delahunty moved to take SB 346-FN off the table.

Adopted.

SB 346-FN, creating a presumption that cardiovascular disease in police officers is occupationally related. Ought to Pass with Amendment. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: I would like to ask you to defeat this motion of ought to pass with amendment, the committee had an agreement with the sponsors and proponents of the bill and it was agreed upon the passage of two other pieces of legislation that this bill would go inexpedient.

Amendment failed.

Question: Ought to Pass.

Motion Lost.

Senator Delahunty moved inexpedient to legislate.

Adopted.

HOUSE MESSAGE

HOUSE NONCONCURS WITH SENATE AMENDMENT REQUESTS COMMITTEE OF CONFERENCE

HB 532, allowing real estate firms or brokers to establish interest-bearing trust accounts.

Senator Dupont moved to accede to the House request to a Committee of Conference.

Adopted.

The President appointed Senators: Dupont, Torr and St. Jean.

RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Tuesday, February 2, 1988 at 1:00 p.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

SB 351, relative to regional banking and mutual savings banks.

SB 302-FN, relative to fireworks.

SB 271-FN, establishing a study committee to examine the feasibility of relocating state agencies in Concord.

SB 349-FN-A, to provide 2 additional field staff and additional equipment to the division of air resources for statewide air quality monitoring and making an appropriation therefor.

SB 341-FN-A, establishing a position to coordinate child day care services in the office of the commissioner of health and human services and making an appropriation therefor.

SB 328-FN, relative to sexual misconduct by psychotherapists.

SB 304-FN, relative to the disposition of fines and forfeitures collected for violations of municipal ordinances, codes, and regulations.

SB 297-FN-A, establishing adult in-home care services for certain persons and making an appropriation therefor.

SB 247-FN-A, relative to phase II of restoration of the old state house and making an appropriation therefor.

SB 242-FN, making an appropriation for the sewage treatment facilities for the towns of Exeter and Monroe.

SB 310-FN-A, relative to the purchase and distribution of breathalyzer machines and making appropriations therefor.

SB 347-FN-A, increasing rates for shared homes and making an appropriation therefor.

SB 326-FN-A, establishing a New Hampshire rivers management and protection program and making an appropriation therefor.

SB 262-FN-A, establishing a New Hampshire conservation corps and making an appropriation therefor.

SB 275-A, relative to Skyhaven airport and making an appropriation therefor.

SB 307-FN, relative to retirement pay for judges, to vested rights in judicial retirement compensation, and to the committee on judicial conduct.

SB 313-FN, providing a cost of living increase for New Hampshire retirement system group II members.

SB 327-FN, eliminating the social security offset provision for group I members of the retirement system and relative to retirement system administration.

SB 331-FN, relative to payment for forensic medical examinations of sexual assault victims.

SB 338-FN-A, relative to a statewide plan for public and private transportation.

SB 254-FN-A, making a supplemental appropriation for school aid.

SB 289-FN, authorizing the hiring of a consultant to study the effectiveness of the foundation aid formula.

SB 294-FN, relative to the catastrophic aid formula, and making a supplemental appropriation therefor.

SB 334-FN-A, establishing a comprehensive literacy and dropout prevention program, and making an appropriation therefor.

SB 291, relative to refund of insurance premiums.

SB 354-FN, establishing a Connecticut River bridge advisory commission.

SB 333, relative to notaries public, commissioners of deeds, justices of the peace, the department of state, and emergency interim succession.

SB 269-FN, relative to indoor air quality in certain state buildings.

SB 283, relative to protective services for adults.

SB 293-FN, relative to asbestos management.

SB 305-FN, relative to pari-mutuel pools at dog races.

SB 279, relative to motor vehicle emissions testing.

SB 303-FN, relative to a judicial service increment and to the committee on judicial conduct.

Senator Dupont moved to adjourn.

Adopted.

Adjournment.

Tuesday, February 2, 1988

The Senate met at 1:00 p.m.
A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, help us to be worthy - to face up to the problems which affect each and everyone of us - both State and Nation wide! Guide us Lord, as we ponder whom would be the right choice to lead us in the days to come!

Amen

Senator St. Jean led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

HOUSE MESSAGE

INTRODUCTION OF HOUSE BILLS

Senator Hounsell offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 574-FN through 1198 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 574-FN, relative to registering and numbering of boats operating on state waters. (Development, Recreation and Environment)

HB 747, relative to the operation of bingo games at agricultural fairs. (Ways and Means)

HB 769-FN, relative to rulemaking authority for the division of elderly and adult services. (Public Institutions, Health and Human Services)

HB 776, relative to the examination of jurors. (Judiciary)

HB 777-FN, relative to real estate appraisals conducted by banks and other lending institutions for loan applicants. (Banks)

HB 798-FN, relative to special function liquor licenses for clubs and special liquor licenses and permits for nonprofit organizations. (Ways and Means)

HB 815-FN, relative to the joint committee on elderly affairs. (Public Institutions, Health and Human Services)

HB 817-FN, relative to coordinating programs for the elderly. (Public Institutions, Health and Human Services)

HB 858-FN, relative to fetal alcohol syndrome. (Public Institutions, Health and Human Services)

HB 890-FN, relative to permits and responsibility for dams. (Development, Recreation and Environment)

HB 955-FN, relative to interstate banking. (Banks)

HB 983, relative to early betting on thoroughbred racing. (Ways and Means)

HB 998-FN, relative to liability of manufacturers. (Judiciary)

HB 1021-FN, relative to the treatment and care of alcohol abusers, substance abusers, and alcohol and substance abusers. (Public Institutions, Health and Human Services)

HB 1144-FN, relative to civil penalties for violations by public utilities. (Judiciary)

HB 1192-FN, establishing a task force to study long term care insurance for the elderly. (Insurance)

HB 1198, relative to work programs for individuals in need of municipal assistance. (Executive Departments)

COMMITTEE REPORTS

HB 324-FN-A, establishing a committee to study development issues and their impact on the state environment and its resources. Inexpedient to legislate. Senator Preston for the Committee.

SENATOR PRESTON: This HB 324, to study development issues and the impact on the state environment, we already have an ongoing committee on growth and development within the state and it was just felt as though this was really a duplication and another committee being formed. If you read the bill, it establishes a House committee anyway, so we just didn't think it was necessary.

Adopted.

HB 496, relative to the regulation and restoration of excavations which existed on or before August 24, 1979. Inexpedient to legislate. Senator Hounsell for the Committee.

SENATOR HOUNSELL: Basically, this bill, we felt, was addressed by a bill that was passed by the Senate, SB 300, which established a rather involved committee to study this whole issue and we feel that that's the Senate's position and we should continue to support that at this time.

SENATOR PRESSLY: I rise in concern over this bill and I would like to speak to it for a few minutes, if I may. This problem is one that is very prevalent in the area in which I represent. I certainly understand the committee's decision to defeat this bill at this time, but I hope and I trust and I would expect that it be reflected in the record, that this bill and the concern and the problem within this bill, truly be studied. It is a problem that is not going to go away and it is going to get worse. It has to do with the laws regarding the excavation of land. The laws are unclear throughout the whole legislation and there is great confusion. So, I am not going to ask that you defeat the inexpedient and do anything else with it, because I understand that people are really committed to an overall study, but I want to go on record as being very concerned and alert the whole body that I certainly expect that there will be something positive coming from that committee and that we can resolve a lot of these questions regarding this issue. Thank you.

Adopted.

HB 648-FN, creating a political subdivision waste disposal financial relief study committee and changing a statutory reference in the hazardous waste laws. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: The amendment strikes out a study committee and leaves intact, on page 2 of the bill, which isn't in the calendar, but it leaves intact the following sentence; notwithstanding the rights of the state under paragraph A above, any person who has expended funds to remedy environmental damages may also bring action in the superior court for the county in which the facility is located, etc. The change is person, it changes the word private party. Private party is not language that should be used in this sense, it should be person because a municipality may not be considered a

private party. So, this makes it clearer and we feel it is consistent with existing regulations. We urge your support of the amendment.

AMENDMENT TO HB 648-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to changing a statutory reference
in the hazardous waste laws.

Amend the bill by deleting sections 1-3 and renumbering sections 4 and 5 to read as 1 and 2, respectively.

Amendment adopted. Ordered to Third Reading.

HB 502, delegating site plan review powers to special site review committees. Ought to Pass with Amendment. Senator Nelson for the Committee.

SENATOR NELSON: HB 502 is enabling legislation. It enables the local legislative body of a municipality to authorize the planning board, by ordinance or resolution, to delegate its site review powers and duty in regard to minor site plans to a committee of technically qualified officials chosen by the planning board.

AMENDMENT TO HB 502

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Special Site Review Committee. Amend RSA 674:43 by inserting after paragraph II the following new paragraph:

III. In municipalities having a population over 25,000, the local legislative body may by ordinance or resolution authorize the planning board to delegate its site review powers and duties in regard to some or all site plans to a committee of technically qualified municipal officials chosen by the planning board. This special site review committee shall have final authority to approve or disapprove site plans reviewed by it, provided that the decision of the committee may be appealed to the full planning board so long as notice of appeal is filed within 5 days of the committee's decision. All provisions of RSA 676:4 shall apply to actions of the special site review committee, except that such a committee shall act to approve or disapprove within 60 days after submissions of applications, subject to extension or waiver as provided in RSA 676:4, I(f). If a municipality autho-

rizes a site review committee in accordance with this paragraph, the planning board shall adopt or amend its regulations specifying application, acceptance and approval procedures and defining what size and kind of site plans may be reviewed by the site review committee prior to authorizing the committee.

Amendment adopted. Ordered to Third Reading.

Recess

Out of Recess

HOUSE MESSAGE

The House of Representatives will be ready to meet the Honorable Senate in Joint Convention at 1:45 p.m. for the purpose of hearing an address by Vice President George Bush.

Recess

Out of Recess

Senator Dupont in the Chair.

ANNOUNCEMENTS

SENATOR HOUNSELL: I think the record should show that General Chuck Yeager was in attendance today as our guest and I think that's noteworthy.

SENATOR TORR: I think more importantly, it should be noted in the record that the Vice President of the United States was in the Senate Chambers today.

RESOLUTION

Senator Hounsell moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, February 4, 1988 at 1:00 p.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 648-FN, relative to changing a statutory reference in the hazardous waste laws.

HB 502, delegating site plan review powers to special site review committees.

Senator Hounsell moved to adjourn.

Adopted.

Adjournment.

Thursday, February 4, 1988

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by Senator Hounsell.

Dear Lord, Thank you for seeing all of us in safely this morning. Guide us in making the right decisions for the people of our beautiful State. Please watch over all of us as we drive home tonight to our loved ones.

Amen

Senator Delahunty led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

HOUSE MESSAGES

The House of Representatives is ready to meet the Honorable Senate in Joint Convention at 1:15 p.m. for the purpose of hearing an address by Jesse Jackson.

Recess

Out of Recess

NOTICE OF RECONSIDERATION

Senator White served notice of reconsideration on HB 502, delegating site plan review powers to special site review committees.

SENATOR WHITE: I'd just say for the record, the amendment was put in the calendar wrong so it's just to correct that.

COMMITTEE REPORTS

HB 504, relative to the placement of candidates' names on ballots. Inexpedient to Legislate. Senator Freese for the Committee.

SENATOR FREESE: When HB 504 was introduced into the House, it eliminated the present practice of people being able to run on both the republican and democrat ticket, in the general election. The House amended the bill so that you could continue to run on both tickets, but your name would be straight across on the democrat and republican ticket so that they were parallel, eliminating confusion, as much as possible. The sponsor of the bill, when this got to the Senate, was not happy with the change in the bill. There was testimony from the Secretary of State's office, the Deputy Secretary of State, and he said that he thought that it would add more confusion. So, the committee voted unanimously inexpedient to legislate.

Adopted.

HB 546-FN, relative to the times for opening and closing the polls in statewide elections. Ought to Pass. Senator Freese for the Committee.

SENATOR FREESE: This bill was designed to bring some uniformity to the hours that the polls are opened, statewide. Basically, paragraph two states that in all state elections, the polls shall open from eleven until seven p.m. They can open earlier than this, but close no later than this. If they wish to, they can stay open later. But they must be open until at least seven o'clock. The purpose of that is to allow the commuters that work out of these communities, to be able to get back from their jobs and vote for that particular election. The exception to the bill is towns of less than one hundred are able to close the polls after people have voted, as regards to the number that are on the checklist, either by coming to the polls or by absentee ballot. So, this protects the towns like Dixville and the smaller communities can continue to do what they're doing now, and when everybody has voted they close the polls. The committee recommends ought to pass.

SENATOR HOUNSELL: Senator Freese, so actually what this bill provides is that anywhere in the State, the polling places will be open from eleven to seven?

SENATOR FREESE: They can open earlier than eleven but they can't close any earlier than seven.

SENATOR HOUNSELL: But they will be open eleven to seven?

SENATOR FREESE: Yes. The exception is, as I explained earlier, for those towns of a hundred voters or less can open the polls by eleven, or earlier if they want to, and close before seven if everybody

has voted. Like the small towns where they have 6 or 8 or 10 or 15 voters, they've been in the habit of opening, I believe, at any time they wish and close at any time they wish, after everybody has voted, either by absentee ballot or by coming to the polls.

SENATOR HOUNSELL: For that exception to kick in, you would have to 100% turn out.

SENATOR FREESE: That is true and most of those towns, I understood, do have 100% turn out, either by absentee ballot or people that come to the polls and vote.

SENATOR HOUNSELL: If one person, who is registered to vote, doesn't show up, his name remains unchecked, the polls will still have to remain open until seven o'clock?

SENATOR FREESE: I think you're correct.

Adopted. Ordered to Third Reading.

SB 330-FN, providing medical and health insurance coverage for retired non-state group II New Hampshire retirement system members. Ought to Pass with Amendment. Senator St. Jean for the Committee.

SENATOR ST. JEAN: This is the third of the retirement bills that we heard down in Senate Finance. We did have a joint hearing with the insurance committee and Finance, to ask the actuary from New York if, in fact, there were enough monies in the fund to be able to fund this group II retirement benefits. They said that unequivocally that there was, in fact, enough money. The amendments that were put on, were put on by the actuaries' attorneys to make sure that we comply with federal law.

AMENDMENT TO SB 330-FN

Amend the title of the bill by replacing it with the following:

AN ACT

providing medical and health insurance coverage for
retired firefighter and police New Hampshire
retirement system members.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Health Benefits. Amend RSA 100-A by inserting after section 23 the following new section:

100-A:23-a Medical and Health Insurance Coverage.

I. The New Hampshire retirement system shall pay the cost, up to the cost of a 2 person premium, for the respective plan of the retired member for permanent group hospitalization, hospital medical care, surgical care and other medical and surgical benefits for retired firefighter and police members on a service retirement or disability allowance or such member's spouses or handicapped children living in the household and being cared for by the retired employee or his spouse. If the cost of a retired firefighter or police state employee member's premium exceeds the cost of a 2 person premium in such member's plan, the state shall reimburse the New Hampshire retirement system for such additional cost. If the cost of the premium of any other retired firefighter or police member exceeds the cost of a 2 person premium in such member's plan, such member may request that such excess be deducted in accordance with RSA 100-A:10-a. Remittance of the group hospitalization, hospital medical care, surgical care and other medical and surgical insurance benefit costs under this section shall be the responsibility of the board of trustees.

II. The retirement system shall pay the cost pursuant to paragraph I for each retired firefighter or police member or his spouse or handicapped child living in the household and being cared for by the retired member or his spouse, or for his beneficiary only if a survivor option under RSA 100-A:13 was taken at the time of retirement and the retired member is not now living, toward a group hospitalization, hospital medical care, surgical care and other medical benefits plan.

III. All current and future firefighter and police members retired on a service or disability retirement allowance from the retirement system shall be authorized to participate, on a voluntary basis, in the group hospitalization, hospital medical care, surgical care and other medical and surgical benefits program of his employer.

IV. There shall be no physical examination or health statement required for coverage under the group hospitalization, hospital medical care, surgical care and other medical and surgical benefit programs; provided, however, that if an otherwise eligible retired member who is a firefighter or police member of the retirement system fails to apply for any such insurance coverage within the time required by the insurance contract, the insurer may require that the retired member submit satisfactory evidence of insurability as a condition for becoming insured.

2 Special Provisions. Notwithstanding any other provision of law to the contrary, all current and future firefighter and police members retired on a service or disability retirement allowance or a spouse of such member or a beneficiary of such member as designated under RSA 100-A:23-a, II or a handicapped child living in the household of and being cared for by such member or his spouse who did not have the option of making a choice regarding benefits that are provided by this act because such member or spouse or child or beneficiary was not eligible for the benefits provided by this act when the member retired shall have one year after the effective date of this act to choose to receive the benefits provided in this act if he notifies his employer of his desire to receive such benefits. The retired member's employer shall adopt policy relative to: the method of determining who of those not previously eligible for new benefits provided under this act shall now receive benefits under this act; the manner of notifying people newly eligible; and any other matter necessary to see that the provisions of this act become fully effective as soon as possible.

3 Funding. The benefits provided under this act shall be provided by a 401(h) subtrust of the New Hampshire retirement system. The subtrust shall be funded by allocating 25 percent of future group II employer contributions made for group II in accordance with RSA 100-A:16 to the subtrust until such time as the benefits are fully funded. Thereafter the subtrust shall receive only that portion of each year's contribution as is necessary to keep the benefits fully funded. The special account established in RSA 100-A:16, II(h) shall be augmented as of the effective date of this act by an amount equal to 20 percent of the accrued liability of group II members calculated as of June 30, 1987 (ignoring any liability created by this act). At the end of each fiscal year beginning with the fiscal year ending on June 30, 1989, the general trust of the New Hampshire retirement system shall be reimbursed for the amount of funds allocated to the 401(h) subtrust for that year. Such reimbursement shall continue until the benefits provided through the subtrust are fully funded or until the total accumulated reimbursement equals \$52,800,000.

4 New Section; Medical Benefits. Amend RSA 100-A by inserting after section 16 the following new section:

100-A:16-a Payment of Medical Benefits for Certain Members who Retire under the Retirement System.

I. Except as provided in paragraph III, all contributions made to the retirement system to provide medical benefits under RSA 100-A:23-a shall be maintained in a separate account and such funds shall not be used for or diverted to any purpose other than to provide said medical benefits. Similarly, none of the funds accumulated to pro-

vide the retirement benefits set forth in this chapter may be used or diverted to provide medical benefits under RSA 100-A:23-a. The funds, if any, accumulated to provide medical benefits under RSA 100-A:23-a may be invested pursuant to the provisions of RSA 100-A:15-16. A separate account shall be established and maintained for each retired member defined in RSA 100-A:23-a who, at any time during the plan year or any preceding plan year during which contributions are made hereunder on behalf of such member, is a key employee, as defined under Section 416(i) of the Internal Revenue Code.

II. It is the intention of the state of New Hampshire that the New Hampshire retirement system continue providing medical benefits under RSA 100-A:23-a and that the employer make contributions in such amounts as the board of trustees shall deem necessary or appropriate under RSA 100-A:16. Any forfeitures of a member's interest in the medical benefit accounts as provided under this section prior to any discontinuance of medical benefits by the legislature shall be applied to reduce any subsequent contributions made pursuant to this section.

III. The legislature may discontinue contributions under this section with respect to the medical benefits provided under RSA 100-A:23-a or cease providing such medical benefits for any reason, at any time, in which event the funds allocated to provide such medical benefits, if any remain, shall be used to continue medical benefits to members who were eligible for them under RSA 100-A:23-a prior to the discontinuance date as long as any funds remain. However, if, after the satisfaction of all medical benefits provided under RSA 100-A:23-a, there remain any funds, the program shall be deemed to be terminated and such remainder shall be returned to the appropriate employer, as defined in RSA 100-A:1, IV, in accordance with Section 401(h)(5) of the Internal Revenue Code.

5 Effective Date. This act shall take effect July 1, 1988.

Amendment adopted. Ordered to Third Reading.

SENATOR ST. JEAN (Rule 44): I do want to take this opportunity to thank Senator Delahunty, Senator Blaisdell and the President of the Senate, Bill Bartlett, who between the three of them worked very hard in getting this bill passed.

HB 17, relative to building codes in municipalities. Ought to Pass with Amendment. Senator Charbonneau for the Committee.

Senator Heath moved to lay HB 17 on the table.

Adopted.

HB 58, relative to the disqualification of local land use board members. Ought to Pass. Senator Charbonneau for the Committee.

Senator Heath moved to lay HB 58 on the table.

Adopted.

HB 452, relative to demerit points for younger drivers. Ought to Pass. Senator Preston for the Committee.

SENATOR PRESTON: HB 452 allows the director of motor vehicles rulemaking authority to set lesser points for the suspension of drivers' licenses and to more closely monitor the age group of 21 or less.

Adopted. Ordered to Third Reading.

Recess

Out of Recess

Senator Dupont in the Chair.

HB 330-FN-A, relative to an exception to the real estate transfer tax. Ought to Pass. Senator Roberge for the Committee.

SENATOR ROBERGE: This bill exempts the New Hampshire trust for paying the real estate tax. We felt that we really didn't need to pay ourselves a tax and so we decided to leave the trust for New Hampshire out of paying the transfer tax.

SENATOR WHITE: Senator Roberge, does this in any way detract from the amount of money that goes to the counties?

SENATOR ROBERGE: I believe it does, slightly. I'm not quite sure.

SENATOR BARTLETT: Senator White, it is my understanding of the real estate transfer tax, that the counties get a percentage of the tax that's collected. They receive that percentage by making a collection to the State of New Hampshire and they send the balance to the State Treasury. If the tax is reduced, if they don't collect it, they don't get a percentage of it.

SENATOR WHITE: I just wonder why we don't at least allow the counties to continue to receive that 4%?

SENATOR BARTLETT: I guess my answer would be, that the land trust is in the State of New Hampshire and I think the counties do get their percentage on total collections and maybe that's their contribution towards open space for the good of the State.

Adopted. Ordered to Third Reading.

HB 331-FN, relative to filing returns under the interest and dividends tax. Ought to Pass with Amendment. Senator Stephen for the Committee.

Senator Stephen moved to lay HB 331 on the table.

SENATOR STEPHEN: The amendment increases the personal exemptions for the interest of dividends tax from 1200 to 1800. A single taxpayer tax would only be reduced to the sum of \$30. The committee voted this bill ought to pass but we would like to table it, because there was some discussion that there were to be two to three million dollars lost in revenue and they want to examine it.

Adopted.

Recess

Out of Recess

Senator Bartlett in the Chair.

HB 627-FN, to provide a loss carry forward under the business profits tax and relative to partnership and proprietorship deductions for compensation. Ought to Pass. Senator McLane for the Committee.

SENATOR MCLANE: This is the loss carryover provision that you may have heard about before. This bill permits business organizations to deduct the amount of the net operating loss carryover, allowed under section 172 of the U.S. Internal Revenue Code, from their gross business profits, in order to determine taxable business profits. The amount of the loss carryover generated in a tax year may be carried forward may not exceed \$250,000. It does put fairness into the business profits tax and it's probably something that we should have been doing from the beginning.

SENATOR DISNARD: Senator McLane, would you please explain the methodology where it estimates that the State could lose ten and a half million dollars?

SENATOR MCLANE: We listened to the department of revenue that tried to justify that figure. We also listened to a lot of new

businessmen who had come into this state, particularly in industry such as the electronics industry, which takes a high amount of capital to begin with. After about two or three years, after substantial losses, these companies would start to make a small profit. At that point, the minute they made the profit, no matter what their loss in the years before, they would start paying the business profits tax. The department of revenue is counting up that loss. It was the contention of the businessmen, and there were some very successful businessmen there that had started small companies, it was their contention that if they had had that small amount of money, that they paid in business profits tax, over those first years, when they started to make a small profit and they had that additional capital to put into their business, that they could prove on paper that in five years down the road they would be paying substantially more in business profits tax. So, we look at the department of revenue's estimates, with a little bit of a grain of salt. They did admit two things; one that they were including years past, which were not part of the bill but that was their methodology at the time when, I guess, the bill was put in two years ago. So, they were not up-to-date figures and it was their honest thought that they really could not estimate what the loss would be. We felt that in fairness, we should be going forward with the business profits tax under a loss carryover.

SENATOR CHANDLER: Senator McLane, didn't the department say that that ten million dollar figure was a lot more than it really would be?

SENATOR MCLANE: Yes, I believe you're right, that they did admit that.

SENATOR WHITE: Senator McLane, does this cover only new businesses?

SENATOR MCLANE: No, this covers any business and we had a big discussion about this. It is not retroactive. It starts this year. We had a big discussion about whether you could apply a section of the business profits tax just to new businesses moving in to the state. Because that was some of the original thrust of the bill, but we felt that, one; it would be unconstitutional to do that. Secondly; that there are a lot of seasonal businesses, such as the ski industry, was one that I brought forward, in New Hampshire, that have good years and bad years. The minute they get a good year, they pay a business profits tax although they may have lost \$250,000 the year before. So, the tourist industry goes back and forth.

Adopted. Referred to Finance (Rule #24).

HOUSE MESSAGE

INTRODUCTION OF HOUSE BILLS

Senator Dupont offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 749 through 1167-FN shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 749, permitting persons qualified to hunt from motor vehicles to hunt from OHRV's and ATV's. (Development, Recreation and Environment)

HB 755, relative to the Goffstown police department. (Executive Departments)

HB 766, relative to utility easements. (Executive Departments)

HB 768-FN, relative to the frequency of regional highway conferences. (Transportation)

HB 772, providing for the classification of Lake Wentworth. (Development, Recreation and Environment)

HB 781, amending the uniform limited partnership act and making reference changes in the disclosure of security takeovers act. (Public Affairs)

HB 803, relative to snowmobile operation and changing compliance dates for ATV manufacturers. (Transportation)

HB 816, prohibiting the hunting of mourning doves in New Hampshire. (Development, Recreation and Environment)

HB 819, relative to the setting of black bear seasons. (Development, Recreation and Environment)

HB 820, relative to the hunter education program and bow and arrow licenses. (Development, Recreation and Environment)

HB 867-FN, relative to bonding authority for the Conway village fire district. (Finance)

HB 874, permitting every county attorney to appoint an assistant county attorney. (Public Affairs)

HB 881-FN, relative to weights and measures. (Executive Departments)

HB 883-FN, relative to resident and nonresident wholesale marine species licenses. (Development, Recreation and Environment)

HB 897, relative to annual reports of county officers. (Public Affairs)

HB 902, relative to county foresters. (Development, Recreation and Environment)

HB 921-FN, establishing a joint legislative oversight committee on highway and bridge construction and reconstruction plans. (Transportation)

HB 989, relative to towed farm implements. (Transportation)

HB 993, relative to the taking of beaver. (Development, Recreation and Environment)

HB 1060, establishing a limitations period for claims of procedural defects in the enactment of municipal legislation. (Judiciary)

HB 1061-FN, relative to retaining certain state-owned land overlooking Lake Winnisquam. (Executive Departments)

HB 1081-FN, naming a part of Route 111 in the town of Windham the Wataerhouse Memorial Road. (Public Affairs)

HB 1090-FN, relative to drugging animals in livestock events and relative to audits of agricultural fairs. (Development, Recreation and Environment)

HB 1123-FN, relative to senior justices and to the sentence review division. (Judiciary)

HB 1130-FN, relative to the cost to counties for performing autopsies. (Executive Departments)

HB 1152-FN, changing the name of the Laconia state school and training center. (Public Institutions, Health and Human Services)

HB 1167-FN, relative to elderly property tax credits. (Ways and Means)

RESOLUTION

Senator Dupont moved that the Senate be in recess until Tuesday, February 9 at 1:00 p.m. for the sole purpose of receiving House Messages and Enrolled Bill Reports.

Adopted.

Recess

Out of Recess

HOUSE MESSAGE

INTRODUCTION OF HOUSE BILLS

Senator Blaisdell offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 762-FN-A through 1046-FN-A shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 762-FN-A, making supplemental appropriations to the fish and game department. (Development, Recreation and Environment)

HB 770-FN, relative to loan scam operators. (Banks)

HB 774-FN, relative to the New Hampshire municipal bond bank. (Banks)

HB 847-FN-A, relative to indigent defense and making an appropriation therefor. (Interstate Cooperation)

HB 893-FN-A, making a supplemental appropriation to the fish and game department. (Development, Recreation and Environment)

HB 995-FN, relative to exemption from the gasoline tax and state license plates. (Ways and Means)

HB 1046-FN-A, relative to the distribution of tax on pari-mutuel pools. (Ways and Means)

Recess

Out of Recess

RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, February 9, 1988 at 1:00 p.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 546-FN, relative to the times for opening and closing the polls in statewide elections.

SB 330-FN, providing medical and health insurance coverage for retired firefighter and police New Hampshire retirement system members.

HB 452, relative to demerit points for younger drivers.

HB 330-FN-A, relative to an exception to the real estate transfer tax.

Senator Dupont moved to adjourn.

Adopted.

Adjournment.

Tuesday, February 9, 1988

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Let us Pray. Lord, it sure is hard often times to rightfully choose between the good and the bad which come before us. Yes, let's be fair with money bills, which come before us and distribute them in a right manner. No hoarding. Help us Lord.

Amen

Senator Chandler led the Senate in prayer.

Heavenly Father, Great Architect of the Universe; we all feel a loss of one of the members of the legislature and I feel a great personal loss because I've known her for a great many years and her family. We co-sponsored several pieces of legislation together. I ask that the soul of Mildred Ingram will rest in peace in heaven. I ask this in thy holy name.

Amen

Senator Disnard led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

COMMITTEE REPORTS

HB 41, providing that the condemnee shall have first option to purchase any property condemned by eminent domain, if said property is abandoned for any reason by comdemnor. Majority. Ought to Pass with Amendment. Minority. Inexpedient to Legislate. Senator Disnard for the Committee.

SENATOR DISNARD: The committee voted 3 to 1 ought to pass. The reason it was voted out to pass, whenever anyone takes land by eminent domain, they take land from an unwilling seller. Usually the seller does not wish to sell the property and the community or the state will take it over for what they think will enhance and improve a community. However, many times a community or the state takes land by eminent domain and does not use it. All this bill does is gives the people who are the unwilling sellers the first opportunity to purchase that land back.

Senator Disnard moved to lay HB 41 on the table.

Adopted.

HOUSE MESSAGE

The House of Representatives will be ready to meet the Honorable Senate in Joint Convention at 1:20 p.m. for the purpose of hearing an address by Senator Robert Dole.

Recess

Out of Recess

TAKEN FROM THE TABLE

Senator Disnard moved to take HB 41 off the table.

Adopted.

HB 41, providing that the condemnee shall have first option to purchase any property condemned by eminent domain, if said property is abandoned for any reason by condemnor. Majority. Ought to Pass with Amendment. Minority. Inexpedient to Legislate. Senator Disnard for the Committee.

SENATOR DELAHUNTY: I realize that the motion of ought to pass has first priority, but I would like to urge the members of the Senate to vote against the ought to pass motion, and I will explain why. First of all, the committee report, I believe, was 3 to 2 as opposed to 3 to 1 as reported. Number two, the legislation is not needed. In most cases it's a negotiable item and is negotiated. The sponsor didn't even appear who supports the legislation. The other thing is, those of you that are maybe interested in affordable housing, if this motion were to pass it could be an abstraction to affordable housing, because if you had somebody that wanted to buy the development and it had to go back to the right of first refusal, that individual may not want to go along with the affordable housing, and may want to develop it into his own interest. I would urge you to defeat this motion as ought to pass.

SENATOR DUPONT: Senator Disnard, I just want to clarify something and I wasn't there for the hearing that day so I didn't participate in the debate on this bill. But, it is my understanding that a significant portion of the eminent domain proceedings take place because parties are unable to agree upon price, not whether or not there was an issue of whether the property should be taken. Do you have any statistical data to back up the fact that you said that most people don't want to sell?

SENATOR DISNARD: Yes, not from statistical data because you must realize that, I don't assume you do either. However, if I am an unwilling seller and the community takes my land, it goes for appraisal, then if I don't wish to accept the price it goes to court. That has nothing to do with what you are saying. What Senator Delahunty indicated, I still disagree with. If the community takes my land and I don't wish to sell it, for a school or a road. Now, he indicated a private developer who has lots of money from out of state wishes to come in for another purpose, I strongly disagree. I think if you are unwilling to sell, you should be protected. How about a farm that was in your family for 300 years, this is happening.

SENATOR DUPONT: I guess the other thing and, I don't believe the bill addresses it, but is there a fair way to compensate the state

from the time that it held the property and took care of the property and all those other issues that obviously are not addressed in this bill?

SENATOR DISNARD: They are addressed, sir, may I quote, "the condemnee shall pay the current appraised value including any improvements at the time the property is available." So yes, there is protection.

SENATOR DUPONT: Wouldn't you see this probably in terms of the litigation that would be involved in this bill, based on a fact that there doesn't seem to be a great need for this. Was there any questions concerning how much litigation that would result in this piece of legislation?

SENATOR DISNARD: No, but I would like to point a story out to you. In Claremont, the Vocational College took land from an elderly couple who couldn't speak English and they were afraid of them. All they asked was, may we live in this house until we die. The state told them no, we are going to tear the house down. The state uses that building for the principal of the school to live in, these things are happening.

SENATOR JOHNSON: Senator Disnard, a friend of mine owned some property, not too far from here, that was taken by eminent domain several years ago. Then the road plans were changed and part of that land, that was taken several years ago, will no longer have an particular use for which it was taken by the state. Don't you believe that that owner should really have the right of first refusal to recoup the land that the state took involuntarily away from that person?

SENATOR DISNARD: As the Speaker said today, that's the American way.

SENATOR FREESE: I was part of the minority that voted inexpedient to legislate on this bill. The reason that I did so, was because there was no one at the hearing that supported the bill. The sponsor was not there, Neil McPherson from the Administrative Bureau of Right of Way - D.O.T., was there. He said, that at this present time, he knows of no problems with regard to the reversion of the land going back to the original land owner if he could be located. They do try to do that. If the land is condemned and then not used for the purpose of which it is purchased. Also appearing at the hearing was James Smith, City Manager of the City of Concord and, he stated

that they did the same thing in trying to find the original land owner, in case the land was not used for the purpose it was purchased. He feels that should this bill pass that it would lead to a lot of legal entanglements. We just feel, as he did, that there is no strong reason for the bill and that it really ought to be voted down.

SENATOR CHANDLER: Senator Freese, if I heard you correctly, you said that the land would go back to the original owner. My understanding of it is not that it would go back to him, but that he would be given the opportunity to buy it back, isn't that right?

SENATOR FREESE: That is true.

SENATOR DISNARD: Senator Freese, isn't it also true that the gentleman, Mr. Smith who spoke to the City of Concord, could not be used as an example as you said, because he also indicated, in his testimony, that the City of Concord never took a piece of land by eminent domain. So, would you think it's fair then, to use that testimony that was left out as an example?

SENATOR FREESE: I am reading his testimony here and I don't see that in the testimony, specifically.

SENATOR DISNARD: Did you see the letter I passed on to the Committee?

SENATOR FREESE: No, I don't have that letter.

SENATOR NELSON: Senator Freese, just a point of clarification, what would be the problem in giving that person the opportunity to purchase this land?

SENATOR FREESE: I don't know the legal entanglement to which the City Manager of the City of Concord, James Smith, alluded, but he says that it could lead to a lot of legal entanglement. Usually when they condemn a piece of land either for the City of Concord or a city, is because you have an unwilling seller and, many times that title is clouded. One of the procedures after the condemnation is to clear the title. I think he felt that this bill would complicate being able to clear that title.

Question: Adopt Committee Amendment.

Division vote:

10 Yeas

11 Nays.

Amendment failed.

Senator Delahunty moved to substitute indefinite postponement.

Roll Call requested by Senator Chandler.

Seconded by Senator Freese.

The following Senators voted yes: Hounsell, Heath, Freese, Hough, Dupont, McLane, Stephen, Torr, Delahunty and Preston.

The following voted no: Bond, Chandler, Disnard, Roberge, Blaisdell, White, Pressly, Nelson, Charbonneau, Podles, Johnson, St. Jean and Krasker.

10 Yeas

13 Nays

Motion lost.

Senator Johnson moved to substitute Ought to Pass.

Senator Hounsell moved to lay HB 41 on the table.

Adopted.

COMMITTEE REPORTS

HB 82, relative to rate increases resulting from construction of large scale electric generating facilities. Inexpedient to Legislate. Senator Disnard for the Committee.

SENATOR DISNARD: The committee voted inexpedient to legislate. The following ideas were expressed at the hearing; Seabrook is now in Chapter 11. The spokesman for the company indicated all things being equal, meaning not in Chapter 11 for the company, they would be able to handle the information that the bill was looking for, in terms of expenditures and income and they are willing to do that. Also, the Senate Research Office raised many questions as to problems with the bill, and when these questions were read, many of us were concerned that the bill did not do what it said it would do and, therefor, my opinion the reason for the 3 to 1 vote in the committee.

Adopted.

Senators Pressly, Preston, Krasker wished to be recorded as opposed.

HB 404-FN, establishing a road pay-back fee system. Inexpedient to Legislate. Senator St. Jean for the Committee.

SENATOR ST. JEAN: Senate Internal Affairs met earlier on HB 404. After listening to testimony, it was our sense that towns and cities could implement what's already in this bill without this legislation, as they are in Concord, Rochester and Dover, for example. It is also our sense that the increased cost for this particular bill would increase the housing cost, and if we're concerned, as most of us are, with the housing cost rising, this bill would certainly add anywhere from \$500 to \$1,000 for a housing unit. This particular bill not only covers housing but any new construction in a community. Testimony that we heard from the State of Florida, who has impact fee, housing cost have risen on the order of \$5,000 to \$6,000 per housing unit. This bill also is called impact fees, another name for it, of course, is a "user fee", and also another name for user fee is "a tax." What we are doing in this regard is we are giving the power to planning boards, unelected officials, the power to tax. I don't think that, we in this legislature ought to be doing that, at this time. If we want to pass a tax, at this particular time, then we should call it such, not an impact fee.

The other thing it allows this particular bill to do, is not only assess a developer a one time cost from time to time, as it says in the bill, up to 20 years planning boards can look at that development and assess more fees on a particular development, which we thought was a little difficult on a particular developer to plan the cost of any given development that they would undertake. The monies from the impact fees go into a special fund. They don't necessarily have to be put in to that particular road or bridge, they can be moved around any given community. For instance, if a developer decides that he really doesn't want to go through with the development, a scenario could work out, to gee, town X, may I have my money back? All of a sudden the town has spent the money on another road in another part of town and we are going to end up in court on that particular situation for years to come. It was our thinking that this was not a well drafted piece of legislation and it should be killed.

SENATOR MCLANE: Senator St. Jean, I have just talked to my city manager for the second time today, and the City of Concord, as you say, does impose impact fees, in fact there were about \$230,000 last year in impact fees. I, just for the record, would like you to repeat again your impression that the intent of this Senate is that those impact fees that are imposed by cities, such as Rochester, Dover and Concord, could continue to be imposed even if this bill is defeated?

SENATOR ST. JEAN: You took the words right out of my mouth. Any community that wants to do that, presently, isn't able to do that. What we saw this bill doing was, a very subtle attempt to push on to towns and cities the power, through the planning board, to tax developers, whether it be a housing development or any new construction. For unelected officials, such as on a planning board, to be able to do that we felt was wrong, Senator.

SENATOR JOHNSON: I think we saw last Thursday morning, the legislative process working, and working very well. We had a complicated bill that came before the Internal Affairs committee, and there was a good deal of give and take. I think that give and take resulted in the discovery by the proponents of this legislation, that there were some flaws in this bill. Having said that, I do rise in opposition to the pending motion, to kill this major public policy bill. I did attend the hearing and I think it is fair to say that the only real opposition came from the Home Builders Association. Now, in my opinion, the number one opponent, of this legislation, should really be the number one cheerleader for this bill, because this is an opportunity to decrease and neutralize the opposition to growth that is manifesting itself all over the State. In regard to that, I'd like to just recognize the outstanding efforts that the Home Builders of this State are making to the solution of the housing problem, in this State. But, let me tell you what some of my town officials have said. A selectmen from Bow stressed the importance of this bill. This has been sanctioned by the New Hampshire Supreme Court in the land vest decision. This bill will provide much needed guidance to all concerned and will insure a greater degree of fairness in this important issue.

In regard to fairness, this bill is simply asking developers to pay their fair share to the cost of improving roads, that provide an immediate and direct benefit to the property under development. This bill may also go a long way to neutralize the feelings of those who want even broader impact fees. Let me say that after having written some of these comments, I had the opportunity to speak with Mr. David Whitcher, a significant builder and developer from the town of Strafford in my district and also a member of the planning board in the town of Strafford. I went over this bill with him and I tried to present it as objectively as I could, also in the presence of Mr. Bernie War, who I also think made that same effort here, and Mr. David Whitcher indicated to me that he had no objection to paying his fair share of an offsite road improvement. He did want to be assured that this was a workable bill, that this bill could be applied with consistency and predictability. I think that that can be done, but I can not

say that with the kind of confidence that I would like to be able to say that. I think we could make a case for laying this bill on the table and giving the proponents of this bill an opportunity to remove some of the flaws that that excellent committee hearing brought out. But, let's face it, there will be development in New Hampshire and there will be a cost. The question is, who is going to pay the cost? Those that receive the immediate benefit or the other property taxpayers? My vote has to be in favor of the property taxpayers that have lived in the town for years, the people who, today, are already paying their own impact fee. I urge you to vote to protect your constituents and defeat this pending motion.

Adopted.

HB 214-FN, relative to penalties for violations of motor vehicle laws by minors. Majority. Ought to Pass. Minority. Inexpedient to Legislate. Senator Preston for the Committee.

Senator Preston moved to recommit.

Adopted.

RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, February 11, 1988 at 1:00 p.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

Senator Dupont moved to adjourn.

Adopted.

Adjournment.

Thursday, February 11, 1988

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, help us in these coming days; such as the Presidential Primary which requires a great deal of thought and President's Day, in which we honor our past leaders, also a big day for wheeler dealing for automobiles! Then comes Ash Wednesday, the start of the Penitential Season of Lent - in which we self examine ourselves to improve ourselves. Help us Lord.

Amen

Senator Heath led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

HOUSE MESSAGES

HOUSE CONCURS

SB 246, relative to the sale of liquor in convention centers and first class ballrooms.

HOUSE REFUSES TO CONCUR

SB 329, establishing a study committee to study Monte Carlo nights, Las Vegas nights, bingo nights and lucky 7.

ENROLLED BILLS REPORT

HB 295, relative to the board of tax and land appeals.

HB 418, relative to mutual holding companies.

SB 147, relative to surety bonds.

INTRODUCTION OF HOUSE BILLS

Senator Dupont offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 731 through 1161 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 731, relative to applications to vote for overseas voters. (Executive Departments)

HB 737, relative to appointing alternates for school board members on municipal budget committees. (Executive Departments)

HB 739, relative to appeals from the denial of building permits in municipalities without zoning ordinances. (Executive Departments)

HB 753, reinstating the charter of Bethlehem Mink Farm, Inc. (Public Affairs)

HB 763, prohibiting the operation of wet bikes on Arlington Mill Reservoir in the town of Salem. (Development, Recreation and Environment)

HB 771, relative to the election of Hillsborough county commissioners. (Public Affairs)

HB 775, to revive the charter of the Fuller Foundation of New Hampshire, Inc., a nonprofit organization. (Public Affairs)

HB 797, relative to regulating the sanitary conditions of restaurants. (Public Institutions, Health and Human Services)

HB 810-FN, relative to overseas voters. (Executive Departments)

HB 818, relative to the taking of trout. (Development, Recreation and Environment)

HB 822, relative to prescription refills. (Public Institutions, Health and Human Services)

HB 827-FN, relative to health screening for members of the general court. (Public Institutions, Health and Human Services)

HB 846, relative to the possession and dispensing of prescription drugs by non-pharmacists. (Public Institutions, Health and Human Services)

HB 849-FN, relative to claims against the state. (Judiciary)

HB 875-FN, establishing a committee to study employment conditions at human services care providers contracting with the state. (Public Institutions Health and Human Services)

HB 900, extending the reporting dates for the study committee to examine the cooperative extension service and the fire law study committee. (Executive Departments)

HB 907-FN, relative to district court jurisdiction in planning and zoning matters. (Judiciary)

HB 923, relative to dredging on great ponds. (Development, Recreation and Environment)

HB 924, to increase the age limit relative to the motor vehicle child restraint requirement. (Transportation)

HB 929, to require health clubs to have one staff member trained in cardiopulmonary resuscitation techniques on duty during all operating hours. (Public Affairs)

HB 936, relative to discoverability of risk in product liability actions. (Judiciary)

HB 944, enabling towns to hold special meetings to appropriate money for the purchase of land for conservation purposes. (Development, Recreation and Environment)

HB 945, relative to the administrative procedure act. (Executive Departments)

HB 980-FN, relative to penalties for sewage treatment violations. (Development, Recreation and Environment)

HB 999-FN, granting authority to the commissioner of environmental services to levy administrative fines for certain violations, and authorizing the director, division of water supply and pollution control, to take certain emergency actions. (Judiciary)

HB 1007-FN, relative to the date when municipalities must make tax payments to counties. (Executive Departments)

HB 1062-FN, extending the reporting date for the advisory committee on state economic development and local population growth. (Development, Recreation and Environment)

HB 1161, relative to health insurance for members of the general court. (Insurance)

COMMITTEE REPORTS

HB 1038-FN, relative to credit services organizations. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: HB 1038 really is a relatively simple bill. It deals with companies that set up operations in New Hampshire to help individuals that have credit problems, resolve those problems. In testimony, in the committee, we heard of a number of problems that have been caused by nonreputable companies coming in to the state and taking individuals that are in the midst of financial crises. Rather than helping them, billing them for some tremendous amounts of money for trying to get information which, for the most part, can be obtained free of charge, if the individuals know how to do it. We felt that while the problem isn't widespread because of some incidents that have already happened in the state, that this was something that we can put in place now to hopefully prevent some problems for the future. So, the committee voted unanimously to bring this to the floor today.

Adopted. Ordered to Third Reading.

HB 890-FN, relative to permits and responsibility for dams. Ought to Pass. Senator McLane for the Committee.

SENATOR MCLANE: This bill was put in at the request of the Environmental Services for a note and appearing for water resources. It gives no new powers to the division. As the situation is now, the division issues an order, and if someone wishes to make a change in a dam on a great pond, this would really simply change the word "order" to "permit" and make it in conformity with the other permits that they issue.

SENATOR NELSON: Senator McLane, it not only changes that, it also changes the date that says after September 3, 1977 to July 1, 1988?

SENATOR MCLANE: I believe if you look at the effective date this will actually take effect July 1, 1988. What it means is that the original date, September 3, 1977, was for the original permitting legislation that called for an order, so there is literally no change. It is funny, we spent a lot of time over that in committee and it changes the date, true, but the date doesn't change until the bill goes in to effect. So, in effect, there is no change.

SENATOR NELSON: I would ask you then if that's the case, and you heard the testimony, I would like you to take a look at the next page and ask you what does reasonable rules mean? The division of water resources may adopt and enforce reasonable rules. How do they define reasonable?

SENATOR MCLANE: I'm not sure how they define it, but as I said before, this gives no new powers to the division. I assume that what they have thought was reasonable still is reasonable.

SENATOR NELSON: Would you believe that I do not believe the words "reasonable rules" should not be in there and that language should not pass like this?

SENATOR MCLANE: I'm sorry that we had no discussion over the word reasonable and my assumption is, because if you look at the parenthesis after the words "reasonable rules", there has been no change in the present law. If you want to take reasonable out, you would be changing the present law.

Senator Dupont moved to lay HB 890-FN on the table.

Adopted.

HOUSE MESSAGE

The House of Representatives will be ready to meet the Honorable Senate in Joint Convention at 1:30 p.m. for the purpose of hearing an address by Reverend Pat Robertson.

Recess

Out of Recess

TAKEN OFF THE TABLE

Senator Dupont moved to take HB 890-FN off the table.

Adopted.

HB 890-FN, relative to permits and responsibility for dams. Ought to Pass. Senator McLane for the Committee.

SENATOR NELSON: Senator Krasker, I was wondering if you might be able to define the term "reasonable rules", and if you think the bill should go over to the House with that in it?

SENATOR KRASKER: This bill came over to us amended, by the House. The current RSA says "reasonable", we didn't change that. That wasn't the purpose of the bill, we didn't change the word or redefine it.

SENATOR MCLANE: It appears to me that Senator Nelson is talking about a large recodification of all the water resources laws and the rules affecting them. We are making a small change from the word orders to permits in one small piece of legislation and I don't think it would be efficient for this body to start going ahead of a recodification and taking each bill separately. I have no objection to taking the word "reasonable" out but it was not discussed in our committee nor suggested. I assume that if the recodification committee were going to make that change, that they would make it for all legislation at the time.

SENATOR BOND: Senator McLane, is it your interpretation of that language, RSA 541, would be the governing statute as far as what were reasonable rules and the manner in which those rules were promulgated?

SENATOR MCLANE: I'm saying that that is the present statute, there would be no change. The only word that is being changed is to use the word "permit" instead of the word "order" and so that that is in the present law "reasonable rules". If there is a committee to change it, then that is fine with us. But it doesn't seem appropriate to do it with every little piece of legislation that comes along, particularly as it was not part of the public hearing.

SENATOR HOUNSELL: I would like to just stand up and mention that I am on the recodification committee and so is Senator Nelson. I think by Senator Nelson's questions, has proved that she really is paying attention to what is going on in the recodification effort and she is right, with her questions. However, mine is this: I'm in agreement with Senator McLane because those can be dealt with in that process of recodification. I feel that this bill should pass at this time.

SENATOR NELSON: What I am trying to suggest here is that the language in this bill is more than ten years old and, at this particular time we no longer use the word "reasonable" at anything, we use RSA 541:A, which clearly defines what those rules are. This language is old which says "reasonable rules", that is the point I am trying to make. I think it is outdated and it was ten years ago. I just wanted to bring that to the attention of the Senate, sir.

Senator Nelson moved to recommit.

SENATOR HOUNSELL: Senator Nelson, can I ask that you help the committee to draft the amendment that you feel will correct this bill?

SENATOR NELSON: Senator Hounsell, I am willing to take responsibility for making sure that the proper amendment is brought forward to your committee.

Adopted.

COMMITTEE REPORTS

HB 741-FN, relative to horsepower of motors on Spectacle Pond in the towns of Enfield and Grafton. Ought to Pass. Senator Preston for the Committee.

SENATOR PRESTON: This bill would prohibit the use of any power motor in excess of 10hp operating on Spectacle Pond in the towns of Enfield and Grafton. This is a 100 acre pond, extremely shallow, 10 to 15 feet and the testimony was in order to decrease the sediments and phosphorus concentrations that this bill would be most helpful.

Adopted. Ordered to Third Reading.

HB 968-FN, authorizing imposition of administrative fines by the water well board. Ought to Pass. Senator Preston for the Committee.

SENATOR PRESTON: If you recall, some of you that were in the chamber, when we passed a bill a couple of sessions ago having to do with licensing well drillers and the purpose is also going to be to report the quality of water found when drilling wells. It was determined by the water resources board that some of the drillers have not reported wells in excess of 30 or 31. Now we have interim study committees studying water quality, we consider it a legislative priority. This would give a little help to the board with the right to impose the administrative fines of up to \$100 to see if we could not generate the compliance with the statute.

Adopted. Ordered to Third Reading.

HB 574-FN, relative to registering and the numbering of boats operating on state waters. Ought to Pass. Senator McLane for the Committee.

SENATOR MCLANE: This numbering system, I think we have gone over before in this legislature. It is now used on the seacoast, the coast guard numbering system. It is used by every other state in the Union and yet we have a different numbering system in our state. Doug Patch, the Assistant Commissioner of Safety, came in and he termed this bill a good solution to a nagging problem.

Adopted. Ordered to Third Reading.

HB 931, prohibiting consumption of alcoholic beverages on ski slopes and ski lifts. Inexpedient to Legislate. Senator Hounsell for the Committee.

SENATOR HOUNSELL: We heard the testimony on this bill and the committee feels that the sponsor should be commended for the concern of the safety on the slope. He is an avid skier and he does have a concern. However, we feel that there is enough law in place to address the concern properly. Thirteen of the sixteen ski areas, that are represented by the New Hampshire Ski Area Association, have informed us that they oppose the bill because RSA 225 can also take care of it. Others in opposition were the New Hampshire Hospitality Association, while opposing people drinking and skiing, are concerned about insurance liability questions. There is also a provision that we have serious doubt towards constitutionality, in that it requires ski areas to require blood testing of all people involved in ski accidents, such as if you are skiing down the slopes and someone else runs into you, if you were doing nothing more except being run into, under the provisions of this law you could be made to take a blood test. For that reason we feel that the bill should be moved inexpedient to legislate at this time.

SENATOR MCLANE: I rise in opposition to the present motion. I am disappointed in the ski areas. I think this is a problem, I think there are those of us who ski almost every weekend have seen drunk people on the slopes. The bill was a very simple bill, it says that you may not drink on the tramways, or on the lifts or on the slopes. When I was a girl, a long time ago and skied, we never heard of anybody who drank while they skied. Things are very different these days. We have bars at the bottom of slopes, you can have a martini and go up the slopes and come down and as I get older I don't want to get run into, I'll tell you. I really feel that that the industry is denying that they have a problem. I am not sure from an insurance liability situation that it isn't worse without the legislation. I speak for Gene Ritzo, a very nice man over in the House who

has worked very hard on this bill, and he believes deeply in this bill. He has had letters from about five ski areas who do agree with him and I do think it is perhaps a business of the ski industry that did not want to be regulated, of course they don't, no one does. But, I feel that at least the Senate should take a look at this and admit that there is a problem with drinking on the slopes.

SENATOR HOUNSELL: Senator McLane, given the provision in the bill that requires that anyone involved in an accident, not really specifying whether that person caused the accident but is involved in the accident, given that requirement that is in this bill, that that person could be made to take a blood test, aren't you uncomfortable?

SENATOR MCLANE: I think that was an interpretation; of course I would be perfectly happy to have that redrafted and that part taken out, but I think that was sort of picking up a little thing and trying to say that the whole bill wasn't any good. What it says, literally, if you will look at it, if the area, in the event of an accident, the ski area may test or require a test for blood levels, on any person involved. To me what that means is if there is a suspicion of alcohol and as the ski patrol man said, "you could smell it", then that person, I assume, when they got to the police at the bottom, the ski area could request that they have an alcohol test. It doesn't say that you have to do everyone and everybody got all involved with the fact that if you are the poor innocent person that they ran into, that you would have to test them. They don't and I think that is carrying it to its absurdity. It might be that that person was so drunk they were laying on the slopes and they got run into, and you might want to test the person that had been run into, but I think it makes it very clear the ski area may test or require.

SENATOR HOUNSELL: Would you, Senator McLane, be willing to give up your civil liberty to the interpretation of a law on the books by someone that represents the ski area?

SENATOR MCLANE: My assumption is, in the same way and I don't know how the drunk driving statute is written, my assumption is that all one's civil liberties would be in place. If you wanted to refuse the test, of course you could refuse the test and then you wouldn't have the privilege of skiing there. It never occurs to me that any law that we write would take away someone's constitutional civil liberties.

SENATOR HOUGH: I rise in support of the passage of this legislation. As an individual who has skied most of my life, and hopes to

continue for the rest of my life, and as a parent of children that ski, I think we should recognize a few basic things. Number one, that this is a sport and any sport that one engages in is an inherent element of risk. But this is not a question of one's civil liberties; this is a question of one's personal discipline and tuning one's skills and body to be able to be proficient. Anyone that would consume alcohol or any other substance prior to participating in this sport, as well as any other sport, is a person that lacks sound judgement and in fact is not a good sport. This legislation is necessary, regrettably. I see, riding up chair lifts, discarded beer cans, wine bottles in various places around this State and in Vermont. I think there are telltale signs of individuals who are putting, not only their own safety but the safety of others at a highly enjoyable recreational sport, on the line. I say again, that this legislation, regrettably, is necessary, but if the individuals that are recreational skiers should be good sports and if they are good sports, this legislation wouldn't be necessary, but regrettably it is.

SENATOR DUPONT: Senator McLane, I have two questions and one of them is with the interpretation of the paragraph starting with the roman numeral five. I would like your interpretation of that, because to me it indicates that after the posting of each facility, the use of any alcoholic beverage during use of the ski facility lifts, trails, or slopes, indicates to me that if they sell alcoholic beverages, now at the present time, that that paragraph would mean a tremendous loss in revenues for the ski area.

SENATOR MCLANE: You are looking at it as all one word. It is the lifts, the trails or the slopes. You can drink all you want at the bottom of the slope, but you can not ride the lifts, thereby endangering people on the lifts, throw bottles off the lifts, or drink on the ski slopes.

SENATOR DUPONT: Would you believe that because of a legal interpretation of that specific paragraph that I ask that question because it is unclear enough that the legal response is that that interpretation would be that it would prohibit anyone from selling alcoholic beverages at a ski area.

SENATOR FREESE: I called John Varelle this morning, who is the President of the New Hampshire Ski Area Association and General Manager of King Ridge. He testified at the hearing, and most of these ski areas have instituted a risk management program to handle the problem of intoxication on the ski slopes. It seems to me, in

view of the fact that if this bill passed, it is quite likely that these ski areas will be paying increased premiums which will spill over into increased ski rates, that we should give these areas a chance with their risk management programs. I am going to urge this Senate today to support the committee report, inexpedient to legislate.

SENATOR STEPHEN: Senator McLane, aren't we going to hurt the skiing area and the lounge industry by passing this bill? Why can't we, instead of having a law, make rules that the management of the ski slopes pass on these rules and not have a law where you are going to hurt the liquor industry, the lounges and restaurants that contribute business profit tax in the State of New Hampshire.

SENATOR MCLANE: I think you would help the liquor industry at the bottom and the bar industry. What we are talking about is people with a flask in their hip pocket hoping they don't fall on the ice. We are not talking about people that buy a drink legitimately at the bottom; we are talking about people who bring a beer with them, hide that beer in their jacket, open it up the minute they get on the lift, finish it up, I can always tell which tower it's going to be, and then toss it out on the slope and go on up to the top. That is what we are talking about, and to me, we are really helping them. I do know that the ski areas are doing a lot of work in trying to control reckless skiing. That is why I am disappointed in their opposition because I feel this law is going to help them.

SENATOR STEPHEN: Don't you think we've heard from the businessman and I think we have responsible people skiing?

SENATOR MCLANE: I think you have responsible people skiing and those are the ones that don't want to be run into.

SENATOR BLAISDELL: Senator McLane, I very seldom disagree with Senator Hough and yourself on a bill, but of course I have seen Ralph skiing and I don't know whether he is drinking or not. I have a concern about the parking lot and places like that. Part of it was the wine flask and a few things like that, would this prohibit me, after I froze myself to death half of the day, coming to my car in the parking lot and being able to take some of that brandy or whatever we have with us?

SENATOR MCLANE: Absolutely not. It says the lifts, the trails or the slopes, nothing else.

Senator McLane moved to recommit.

SENATOR PRESSLY: I certainly support the motion to recommit. This is something I certainly believe in, and if it will give the Senate committee the opportunity to answer some of the questions that have been addressed, I would like to see that happen, so that we can move forth in good legislation, such as this.

SENATOR DUPONT: Senator Freese, I would just like to know the nature, I am really having a tough problem with this because I sympathize with Senator McLane in what she is trying to do, but at the same time recognizing the prices in the insurance industry, liability wise, is that the ski areas are afraid that in trying to enforce the provision of this bill that that is going to cause the increase in their insurance?

SENATOR FREESE: The testimony so states, yes.

SENATOR HOUNSELL: I rise in strong opposition to this and to put this bill into inexpedient. You know, the ski areas represent a big business in this state, they do an awful lot for the economy of this state, and it would be very unfortunate for us in this session to burden them with the unknown of increased insurance liabilities. We have in place RSA 225 which can do the job and I believe does do the job. We have heard that skiers in New Hampshire are drunk all the time, well I don't believe that. I think the bulk of the skiers in New Hampshire are sober sportsmen, I think they enjoy what they are doing and those people who do misbehave on the slope, we have RSA 225 to deal with them. I think the ski areas can police themselves and I think it is unfortunate that we should recommit this and waste any time on it. We should help the ski areas to be profitable and not burden them with any further rules or regulations.

Motion failed.

Question: Inexpedient to Legislate.

Committee Report adopted.

HB 207-FN, relative to the siting of and permitting of solid and hazardous waste disposal facilities. Split Report: Ought to Pass; Inexpedient to Legislate. Senator Hounsell for the Committee.

Senator Hounsell moved to pass over HB 207-FN.

Adopted.

SB 355-FN, relative to the distribution of sweepstakes revenue. Ought to Pass with Amendment. Senator Hough for the Committee.

SENATOR HOUGH: SB 355-FN and the amendment, which is in your calendar which was unanimously adopted by your committee on Finance, addresses the subject of excess sweepstakes revenue. It was brought to light as a result of a LBA audit presented to the fiscal committee in December. As a result of the action of the fiscal committee, the Attorney General, in conclusion, of a most recent opinion, indicated that the revenues that had been generated by the sweepstakes program and which have historically been dedicated to be returned to the local school districts, in support of local education, should be addressed by further legislative authorization in the 1988 session of the legislature. I would request that the committee vote favorably on the Finance committee's amendment and pass the bill.

SENATOR JOHNSON: I rise in strong support of this bill and commend Senator Hough and the rest of the people who worked on it. It corrects errors that were made and how they were made is still a mystery to me. This body, on more than one occasion since I have been here, passed legislation to accomplish that, Senator Blaisdell is nodding affirmatively there, and how it got off the track, I will never know but thank goodness it is back on the track and this body should pass this immediately.

SENATOR NELSON: I also would echo the remarks of Senator Johnson and compliment both Senator Hough and Senator Torr and the fiscal committee for that worthy step on the part of the Senate, backs the cities and towns.

Amendment to SB 355-FN

Amend the title of the bill by replacing it with the following:

AN ACT

appropriating additional sweepstakes
revenues for foundation aid.

Amend the bill by replacing all after the enacting clause with the following:

1 Foundation Aid; Sweepstakes Distribution. Amend 1987, 400:106, 03, 02, 04, 01 by deleting all after line 93, including the footnote, and replacing it with the following:

96 Sweepstakes Distribution	25,000,000	27,300,000
Total	38,018,312	38,018,312

Estimated Source of Funds for Foundation Aid

08 Sweepstakes Revenue	25,000,000	27,300,000
General Fund	13,018,312	10,718,312
Total	38,018,312	38,018,312

2 Authority to Adjust Totals. The legislative budget assistant is authorized to adjust any totals as made necessary by the passage of this act.

3 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill, as amended, increases the sweepstakes distribution appropriated for foundation aid for the current biennium by \$6,000,000 for each fiscal year, and adjusts the estimated sweepstakes revenue accordingly. The bill also eliminates the footnote on sweepstakes fund appropriation allocation from the foundation aid PAU.

Roll Call requested by Senator Blaisdell.

Seconded by Senator Torr.

The following Senators voted yes: Bond, Hough, Dupont, Chandler, Disnard, Roberge, Blaisdell, White, Pressly, Nelson, Charbonneau, McLane, Podles, Johnson, Stephen, Bartlett, St. Jean, Torr, Delahunty, Preston and Krasker.

The following voted no: Hounsell, Heath and Freese.

21 Yeas

3 Nays.

Amendment adopted. Ordered to Third Reading.

HB 705-FN, relative to itinerant vendors. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: This bill deals with itinerant vendors and hawkers. Basically the problem has been that people come in to this state and they go out of this state with defective merchandise. It was to try and tighten up those tractor trailers that come in and sell, sometimes, stolen property. The bill as it passed the House, did not retain the local control, which was a quite concern to many of the selectmen. So, the amendment which you have, which starts on page 7 of today's calendar and goes through to page 9, does include that

they must follow the local ordinances of that particular city or town. It now has the support of the municipal association and others. The Secretary of State is the one that worked in great detail with the sponsor of this bill so we urge you to support the committee report.

AMENDMENT TO HB 705-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Hawkers and Peddlers; Definition. RSA 320:1 is repealed and reenacted to read as follows:

320:1 Definition. The terms "hawker" and "peddler" shall mean and include any person, as defined by RSA 358-A:1, either principal or agent, who:

I. Travels from town to town or from place to place in the same town selling or bartering, or carrying for sale or barter or exposing therefor, any goods, wares, or merchandise, either on foot or from any animal, cart, or vehicle; or

II. Travels from town to town, or place to place in the same town, offering to perform personal services for household repairs or improvements, or solicits or induces any person to sign any contracts relating to household repairs and improvements, including contracts for the replacement or installation of siding on any residence or building; or

III. Keeps a regular place of business, open during regular business hours at the same location, but who offers for sale or sells and delivers, personally or through his agents, at a place other than his regular place of business, goods, wares, or merchandise.

2 Definition. Amend RSA 321:1 to read as follows:

321:1 Defined. For [all] the purposes of this chapter, the words "itinerant vendors" mean all persons (as defined by RSA 358-A:1), both principals and agents, including those persons whose principal place of business is not in this state, who engage in a temporary or transient business in this state, either in one locality or traveling from place to place, selling goods, wares and merchandise, with a total value greater than \$500, from stock or by sample for future delivery, and who, for the purpose of carrying on such business, hire or occupy [any room, building or structure for the exhibition and sale of such goods, wares and merchandise or samples] a temporary place of business. A "temporary place of business" means any public or quasi-public place including, but not limited to, a hotel, motel, rooming house, storeroom, building, part of a building, tent, vacant lot, railroad car, or trailer temporarily occupied for the purpose of making retail sales of goods to the public.

3 Itinerant Vendors; Exception. RSA 321:3 is repealed and reenacted to read as follows:

321:3 Exceptions. The provisions of this chapter shall not apply to the following:

I. Sales made to dealers by commercial travelers or selling agents.

II. Hawkers and peddlers, as defined in RSA 320:1.

III. Any person selling the product of his own labor or the labor of his family, or the product of his own farm or the one he tills.

IV. Any person who operates a permanent business in this state, occupies temporary premises, and prominently displays the permanent business' name and permanent address while business is conducted from the temporary premises.

V. Any nonprofit corporation, community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes when no part of the entity's earnings benefit any private shareholder or individual.

VI. Any person conducting business in any industry or association trade show.

VII. Any person who sells exclusively antiques, used goods, or vintage items.

4 Deposit; Bond Posted; License Fee. Amend RSA 321:4 to read as follows:

321:4 Deposit; Fee; Issue.

I. Every itinerant vendor desiring to do business in this state shall make a special deposit of [~~\$500~~] \$5,000, in the form of cash or a surety bond, with the secretary of state, and, thereafter, upon application in proper form and the further payment of [~~\$50~~] \$250 as a state license fee, the secretary of state shall issue to him an itinerant vendor's license, authorizing him to do business in this state in conformity with the provisions of this chapter for the term of one year from the date [thereof] of application. The license shall contain a copy of the application upon which it is granted. Any person whose bond, deposited pursuant to this section, is cancelled prior to the original expiration date of such bond shall be responsible to notify the secretary of state of such cancellation within 2 business days of the cancellation.

II. Every employee or agent of an itinerant vendor, operating in this state as an itinerant vendor as defined by RSA 321:1, may in lieu of an application under paragraph I, upon application in proper form and payment of a \$250 state license fee to the secretary of state, be issued an itinerant vendor's license for a period of one year. Licenses issued under this paragraph, however, shall be null and void upon expiration of the itinerant vendor's license held by the employer, the

cancellation or expiration of a surety bond filed by the employer with the secretary of state, or upon termination of employment with said licensed vendor.

5 License Application; Form and Content. Amend RSA 321:6 to read as follows:

321:6 Applications; Record. Applications for state licenses shall be made upon blanks prepared by the secretary of state requiring such information regarding the applicant's character and qualifications as the secretary shall deem pertinent. All applications for state licenses shall be sworn to, shall state the name and residence of the owners or parties in whose interests the business is conducted, and shall be kept on file by the secretary of state, who shall keep a record of all licenses issued by him.

6 Cancellation; Payment of Claims. Amend RSA 321:7 to read as follows:

321:7 Cancellation. Any state license may be surrendered for cancellation at any time. Upon the expiration and return or surrender of any state license, the secretary of state shall cancel the same, endorse the date of delivery and cancellation thereon and place it on file. He shall thereafter hold the special deposit provided for in RSA 321:4 for 60 days[, and, after satisfying the claims made upon the same under RSA 321:8, shall return the balance of said deposit to the licensee]. The secretary of state shall satisfy all claims made against any itinerant vendor from the cash deposited by such vendor, or by demanding payment of such claims from the issuer of any bond filed on behalf of such vendor. After satisfying the claims made upon the deposit under RSA 321:8, the secretary of state shall return the balance of any cash deposit to the licensee. No deposit shall be paid to the licensee so long as there are notices of outstanding claims against it.

7 Application of Deposits; Fines; Priority of Claims; Cash or Bond. Amend RSA 321:8, 9, and 10 to read as follows:

321:8 Application of Deposits. Each deposit made with the secretary of state, whether in the form of cash or a surety bond, shall be subject, so long as it remains in his hands, to attachment under trustee process and execution in behalf of creditors whose claims arise in connection with the business done in the state, and he shall pay over or demand payment from the issuer of the surety bond, under order of court, or upon execution, of such sum as he may be charged with upon his disclosure.

321:9 Fines. Said cash deposit or surety bond shall also be subject to the payment of all fines and penalties incurred by the licensee for violations of this chapter, and the clerk of the court in which such fine or penalty is imposed shall thereupon notify the secretary of

state of the name of the licensee against whom such fine or penalty is adjudged and the amount thereof. The secretary of state, if he has in his hands a sufficient sum, shall pay the same to said clerk or demand payment of such sum from the issuer of the surety bond; otherwise he shall make payment as aforesaid of so much as he has in his hand or as much as he can recover from the issuer of the surety bond.

321:10 Order of Payment. All claims upon the cash deposit or surety bond shall be satisfied after judgment in the order in which notice thereof was received by the secretary of state, until all claims are satisfied or the cash deposit or surety bond exhausted; but no notice filed after the expiration of said 60 days shall be allowed.

8 Exceptions; Household Goods Sales Not Subject to Chapter. Amend RSA 320:3 to read as follows:

320:3 Exceptions. The provisions of this chapter relating to hawkers and peddlers shall not apply to any person selling the product of his own labor or the labor of his family or the product of his own farm or the one he tills, nor to any person conducting sales of personal household goods on his own property, nor to itinerant vendors as defined in RSA 321:1.

9 Hawkers and Peddlers; State License Requirements; Bond. Amend RSA 320:8 to read as follows:

320:8 State Licenses.

I. Upon compliance with this section and upon payment of \$35 for a state license, the secretary of state may grant special state licenses. Applications for such licenses shall be made upon blanks prepared by the secretary of state requiring such information regarding the applicant's character and qualifications as the secretary shall deem pertinent. No such license shall be issued unless the application is accompanied by a certificate signed by the chief of police of the city or town, and, if there [shall be] is no police chief, then the board of selectmen of the town in this state in which the licensee shall begin operating, stating that the applicant for a license is a person of good moral character and in good standing in New Hampshire.

II. Any person so licensed may do business as a hawker or peddler in any city or town in this state, provided the licensee complies with all local ordinances, bylaws and regulations, including those adopted under RSA 31:102-a. [In addition to the payment of a license fee, the applicant shall file a surety bond or deposit in cash, a sum of not less than \$1,000 with the secretary of state, which shall be available for payment of any judgment recovered by the vendee or any compromise settlement effective between the vendor and vendee, provided such judgment or settlement is on a contract or cash sale,

involving an amount in excess of \$25 and the proper certificate issued to the secretary of state would constitute an order for payment of such sum. In the event that] If [a corporation should apply] an applicant not a natural person applies for a license under this chapter, the sum of \$5,000 deposited with the secretary of state in cash or surety bond shall be required, and the employees or agents of such corporation shall [also be individually licensed and individually file a surety bond or deposit in cash a sum of not less than \$1,000 with the secretary of state] be covered under such cash payment or surety bond. Any surety bond posted under this section shall remain effective for at least 60 days after the annual renewal date. All such agents or employees shall be permitted to apply for licenses under such cash payment or surety bond.

III. The annual license renewal fee shall be \$35. At the time the renewal fee is submitted to the secretary of state, the licensee shall:

(a) Update information pertaining to the license, if necessary.

(b) Submit written proof that any surety bond required by paragraph II is in effect and will remain in effect as required in paragraph II.

10 Effective Date. This act shall take effect July 1, 1988.

AMENDED ANALYSIS

The bill, as amended, increases the required bond filed from \$500 to \$5,000, and increases the state license fee from \$50 to \$250.

The bill, as amended, delineates persons not considered itinerant vendors to include charitable and nonprofit organizations, persons conducting trade shows, persons selling self-produced products or farm products, persons having permanent businesses in the state using temporary premises, or a person selling antiques. Bonds filed as security are effective for 60 days beyond the expiration date of the license to protect consumers' rights of recovery.

Amendment adopted. Ordered to Third Reading.

HB 499, relative to return of recovered property. Ought to Pass with Amendment. Senator Roberge for the Committee.

SENATOR ROBERGE: Victims who have property stolen from them tend to be victimized twice under the present system. First, by the criminal who takes the property, and second, by the law enforcement, because law enforcement won't give back the property because of its need as evidence in court. What this bill does is to make an attempt to speed up the process to get the property back to the victims by using photographs and different other kinds of evidence as opposed to the property itself in court.

Amendment to HB 499

Amend RSA 595-A:6 as inserted by section 1 of the bill by replacing it with the following:

595-A:6 Seizure, Custody and Disposition of Articles; Exceptions. If an officer in the execution of a search warrant, or by some other authorized method, finds property or articles he is empowered to take, he shall seize and safely keep them under the direction of the court or justice so long as necessary to permit them to be produced or used as evidence in any trial. Upon application by a prosecutor, defendant, or civil claimants, the court, prior to trial or upon an appeal after trial, [may] shall, upon notice to a defendant and hearing, and except for good cause shown, order returned to the rightful owners any stolen, embezzled or fraudulently obtained property, or any other property of evidential value, not constituting contraband. This section shall apply regardless of how possession of the property was obtained by the state. Photographs or other identification or analysis made of the returned property shall be admissible at trial as evidence, in lieu of the originals, for all relevant purposes, including ownership. In the case of unknown, unapprehended defendants, or defendants wilfully absent from the jurisdiction, the court shall have discretion to appoint a guardian ad litem to represent the interest of such unknown or absent defendants. The judicial findings on such matters as ownership, identification, chain of possession or value made at such an evidentiary hearing for the restoration of property to the rightful owners shall thereafter be admissible at trial, to be considered with other evidence on the same issues, if any, as may be admitted before the finder of fact. All other property seized in execution of a search warrant or otherwise coming into the hands of the police shall be returned to the owner of the property, or shall be disposed of as the court or justice orders, which may include forfeiture and either sale or destruction as the public interest requires, in the discretion of the court or justice, and in accordance with due process of law. Any property, the forfeiture and disposition of which is specified in any general or special law, shall be disposed of in accordance therewith.

AMENDED ANALYSIS

This bill, as amended, requires law enforcement officials to promptly return recovered property to its owner, where there is no dispute over ownership, except for good cause shown.

Amendment adopted. Ordered to Third Reading.

HB 551-FN, establishing a study committee relative to computer-based public records. Ought to Pass with Amendment. Senator Podles for the Committee.

SENATOR PODLES: HB 551 establishes a study committee for the purpose of developing a standard data dictionary to be used to give to the public for greater access to computerized information. This is supposed to be a strictly informational group of people and they are to develop the techniques necessary to make this happen. This bill takes the right-to-know law a step further and I urge passage of the bill.

Amendment to HB 551-FN

Amend subparagraphs (a) and (b) of paragraph I as inserted by section 2 by replacing them with the following:

(a) Three members of the house of representatives, or their designees, appointed by the speaker of the house.

(b) Three members of the senate, or their designees, appointed by the president of the senate.

Amendment adopted.

Senator Podles offered a floor amendment.

SENATOR PODLES: This amendment passed unanimously in the committee, it's just that it never got into the calendar and, this is why we have to have this as a floor amendment. What it does, it establishes three members of the House of Representatives or their designees on this committee, three members of the Senate or their designees. It also adds the Commissioner of the Department of Safety or his designee, the New Hampshire Bar Association, Business and Industry Association of New Hampshire and the Commissioner of the Department of Libraries, Arts and Historical Resources or her designee, and also, the Secretary of State or his designee. In addition to that, another amendment was passed in the committee, which was at the request of the Governor, the Department of Safety and the Attorney General's office. It sets up a procedure for control over solicitations that take place on state property. It gives the Commissioner of Administrative Services the authority to be able to designate areas around public buildings which may be used by individuals or groups who want to demonstrate, protest, or disseminate any information. It also provides a criminal penalty for a person who conducts this kind of activity. What we were told was

that the LaRouche people are sort of badgering people at public places. There is no mechanism to stop this, so this is the reason for this amendment and I would urge you to support this amendment.

Senator Blaisdell moved to lay HB 551-FN on the table.

Adopted.

HB 769-FN, relative to rulemaking authority for the division of elderly and adult services. Ought to Pass. Senator Podles for the Committee.

SENATOR PODLES: HB 769 is a simple housekeeping bill. All it does, is it allows the Director of the Division of the Elderly and Adult Services, with the approval of the Commission of Health and Human Services, to adopt rules relative for social services for the elderly and adult population.

Adopted. Ordered to Third Reading.

HB 815-FN, relative to the joint committee on elderly affairs. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: This is a very simple housekeeping bill. The amendment you will find on page 9. Basically all it does is increase the membership on the committee, it goes to six Representatives and three Senators or their designees. We would urge your support.

AMENDMENT TO HB 815-FN

Amend RSA 17-H:2 as inserted by section 1 of the bill by replacing it with the following:

17-H:2 Membership. The committee shall consist of [5] 9 members: [3] 6 representatives appointed by the speaker of the house, and [2] 3 senators, or their designees, appointed by the president of the senate.

Amendment adopted. Ordered to Third Reading.

HB 252-FN-A, relative to the rate of the business profits tax. Ought to Pass. Senator Blaisdell for the Committee.

SENATOR BLAISDELL: HB 252 has nothing to do with lowering the business profits tax, but it provides for tax credits against taxes paid in excess of the 8%, due to the blended rates in the business

profits tax. You remember last summer, there was quite a bit of discussion about the blended rates that the Department of Revenue and Administration brought in. I wish they had been doing a little bit more homework in their own area, in their business rather than fooling around with something like this, because it costs the business community in this State around 1.7, 1.8 million dollars. Senator Nelson and I have worked very hard at this and it results in a small saving, but in the spirit of fairness and equity for the business community, this committee of Ways & Means voted this bill ought to pass and it was unanimous and I hope you support it.

Adopted. Referred to Finance (Rule 24).

HB 747, relative to the operation of bingo games at agricultural fairs. Ought to Pass with Amendment. Senator Chandler for the Committee.

SENATOR CHANDLER: This bill allows the operators of an agricultural affair to have bingo games and have them run by somebody else outside of the organization of a fair, but there must be somebody representing the fair association present at all times, during the playing of the bingo games. The amendment simply adds, on line 9, that they must be present at the game to make it so that somebody has to be right there while the game is being run.

SENATOR DISNARD: Senator Chandler, would the Cornish Fair, if this was adopted, still receive some type of income from this bingo?

SENATOR CHANDLER: Yes. The fair rents out a place for the game to be run, they get money from the game.

SENATOR DUPONT: I rise in opposition to the amendment, while I have no problem with the bill as originally written, the amendment I think places an unfair burden on these nonprofit organizations in New Hampshire that run these fairs. I know I take some criticism for standing up in defense of the Rochester Fair, but in this particular instance I do have an interest in preserving our family fairs in the State of New Hampshire and in particular the Rochester Fair, and just ask the Senate to think about this one particular fair and look at the effect of this bill. The Rochester Fair, as an example, leases out its facility to allow bingo to be run in that facility. They do that because they do not have the personnel or the time to run that bingo game. What you have here, in the Rochester Fair for example, they start at 10:00 a.m. with bingo, which everybody knows is very

popular, and the games run until 12:00 at night on weekends and 11:00 p.m. during the week. So, what you are asking, with this amendment, is to have someone from the fair standing there 10 and 12 hours a day, day in and day out, for the two week duration of the fair. It is just unreasonable to think that they are going to have somebody stand there. While I recognize that there has been some abuse perhaps, maybe at some of the fairs in terms of how they operate their bingo games, in this particular case I have no problem with requiring that somebody be present on the grounds when they are running, but to ask someone to stand there for 12 hours and watch the bingo balls fly up in the air is ridiculous. It just is not a prudent move on the Senate. I fully support the bill as it originally came in, but the amendment, I would ask the members of the Senate to defeat the amendment and pass the original bill.

SENATOR CHANDLER: Senator Dupont, I understand what you are saying but would it not be possible for the Rochester Fair to charge a rental fee to whoever is going to be running the bingo games sufficient to pay to have somebody be there?

SENATOR DUPONT: Senator, I guess I would answer that by saying, if the real concern of the sponsors of this bill is to make sure that all monies that come through for bingo cards is put into the till, then it would be more appropriate I think to have someone that perhaps is from the State to go in there and make sure that the money is counted. The bill says nothing about having someone standing there to watch money counting, whether to watch to see if the game is being run fairly, all it says is somebody should be there. You could buy a block of wood and stick it in the corner that says Rochester Fair on it and it will do the same amount good as having this person stand there.

SENATOR CHANDLER: Does not the sweepstakes commission now police bingo games all over the State and it could still be policing there anyway?

SENATOR DUPONT: Senator, all the fairs that operate bingo games have to have licenses from the State, and their inspectors have to be in there to take a look at these games, and at the bigger games inspectors are generally present during the whole duration of the game. That is why I don't understand what we are trying to do with this piece of legislation.

SENATOR JOHNSON: Senator Dupont, I think maybe Senator Chandler alluded to it, but Senator Dupont don't we have inspectors

now that whose job it is to safeguard the operation of these bingo games and isn't this kind of an amendment an additional an unnecessary burden on the people who are conducting bingo games?

SENATOR DUPONT: Senator, I sincerely think it is and I would much rather see that when someone purchases a license to run bingo games, charge them \$500 for that two week period time or whatever and let the State bring somebody in to watch the game. I don't think a lay person is going to be able to understand what is going on at the game, so if we are trying to enforce with a lay person it's not going to work.

SENATOR BOND: I rise in opposition to the amendment, in favor of the bill as it was originally presented to us. The fairs in this state are a critical part of what we have to market to tourism and they are economically very fragile and I would say that the less we create problems for them and the more we support their needs, and this is one of their needs, the more important it is.

SENATOR HEATH: I rise partially on behalf of the Sandwich Fair. I thoroughly agree with Senator Dupont. If I thought the amendment to this bill would do the job, I guess I would support it. I really don't think that a person being there, even a trained expert has a hard time seeing what goes on and things do happen at these games, but we have recently transferred the oversight of that from the sweepstakes department to safety. I am all in favor of them having more inspectors and watching more carefully, but this amendment is not going to do anything except waste a persons time and the resources of our agricultural fairs. I would oppose the amendment.

SENATOR STEPHEN: Senator Dupont, don't we only have five inspectors in this State and how could they take care of all of these bingo games? So, why wouldn't it be good for management of the fairs that have to allow a person there to watch over the game so they run in the proper fashion?

SENATOR DUPONT: I would respond to that by saying that I certainly would support having the licensees put on more enforcement. I would have no problem if you want to charge the people that run bingo games an extra 500 dollars a year for a permit to pay for the cost of bringing another enforcement person in. But I couldn't go into that bingo game to find out what was going wrong if something was going wrong. The Rochester Fair is run by a group of elderly people that basically do it for the good of the community, it is a non

profit organization and they are not qualified, just as you or I are not qualified to walk into that bingo game and see that somebody is skimming money or that the machinery is operating illegally. I just think that we are asking them to do a task that they can't possibly perform.

Amendment failed.

Question: Ought to Pass.

Adopted. Ordered to Third Reading.

HB 914, relative to interest due with a return or estimated taxes in the business profits tax and the interest and dividends tax. Ought to Pass with Amendment. Senator Chandler for the Committee.

SENATOR CHANDLER: This is a bill put in by the Department of Administration of Revenue. Anybody that pays their interest and dividends tax late is subject to pay extra interest on the late payment. Also, if they get an extended period of time to file a return and even though they get permission to have an extended period of time, and they pay it late they are still liable for the interest that is due on it.

SENATOR NELSON: Senator Chandler, I am just concerned about the initial purpose, in other words they don't pay any interest?

SENATOR CHANDLER: If they are delinquent and they pay late, they have to pay interest, but now if they get permission to be late they don't pay the interest, so this makes them pay the interest in any case.

AMENDMENT TO HB 914

Amend the title of the bill by replacing it with the following:

AN ACT

relative to interest due with a return or estimated taxes
in the business profits tax and the interest and
dividends tax, and relative to a definition
of the United States Internal Revenue
Code for business profits
tax purposes.

Amend the bill by replacing section 6 with the following:

6 Internal Revenue Code Defined. Amend RSA 77-A:1, XX(b) to read as follows:

(b) For all tax years beginning after December 31, 1986, the United States Internal Revenue Code of 1986 in effect on [January 1] December 22, 1987, unless and until a specific statutory exception to its adoption is provided in this chapter, or until the application of one of its provisions is held to violate the New Hampshire Constitution. "United States Internal Revenue Code" does not mean the rules, regulations, forms, and procedures of the United States Internal Revenue Service. The rules, regulations, forms, and procedures of the United States Internal Revenue Service may, however, be used by the commissioner of revenue administration in formulating rules for adoption under RSA 541-A.

7 Effective Date. This act shall take effect upon its passage and shall apply to returns and taxes due on account of taxable periods ending after December 22, 1987.

AMENDED ANALYSIS

Under this bill when any business organization under the business profits tax or any taxpayer under the interest and dividends tax fails to make payment with a return when due, the business organization or taxpayer must pay interest as prescribed in RSA 21-J:28. The bill also provides that if a taxpayer receives an extension of time for filing a return under the interest and dividends tax, the taxpayer is still liable for interest under RSA 21-J:28. The bill also clarifies 2 section headings.

This bill was requested by the department of revenue administration.

As amended, the bill also changes the definition of "United States Internal Revenue Code" under RSA 77-A to refer to the Code in effect of December 22, 1987.

Amendment adopted. Ordered to Third Reading.

HB 806, relative to the price of wine. Ought to Pass. Senator Stephen for the Committee.

SENATOR STEPHEN: Since 1985, this legislature has allowed a suspension on the restriction of the price of wine sold in an off-state premise location. The law has been that any wine carried by the liquor commission could not be sold retail for less than the price set by the liquor commission. In 1986 we continued the suspension, but created a study committee to see what the impact was on state revenues. The committee found no adverse effects on this suspension. The committee voted unanimous in voting for the bill. Also, the liq-

uor commission was in favor. It helps out the retail store owner when they can't move the wines, they can move them out of there at a lower price.

Adopted. Ordered to Third Reading.

HB 207-FN, relative to the siting of and permitting of solid and hazardous waste disposal facilities. Split Report: Ought to Pass; Inexpedient to Legislate. Senator McLane for the Committee.

SENATOR MCLANE: This bill was put in by Representative Marilyn Campbell because of a situation that happened in her town of a change in ownership of a solid waste disposal facility. After that change in ownership, there was significant change in the way this facility was operated and yet there had been no review by the State of this change. She felt that because solid waste is such an all important environmental issue in this state that the laws that apply to hazardous waste should also apply to solid waste facilities. The division of water pollution should be allowed to inspect these sights at the time that they are created. The question is whether, when there is a transfer of title and possibly a change in use, the State should also have some sort of review power. We worked very hard to get an amendment that we didn't feel was as cumbersome as the original bill and Senator Krasker will explain that amendment.

Senator Krasker offered a floor amendment.

SENATOR KRASKER: It really was an uneventful hearing. It was a bill that didn't have opposition. The BIA had a problem with terminology, we think we have taken care of that in the amendment. The objections seem to be, that in a transfer, a business that has gotten a permit and then sold the facility to somebody else shouldn't have to require that this new business, every single time, undergo the process of a public hearing. We have taken care of that also in the amendment which is really going to simplify the entire procedure. What we have done, and I will go over it because you haven't had a chance to see it, is make the provisions of solid waste consistent with the authority that waste management already has in the matter of hazardous waste. The division of waste management will have the same discretionary power of review, with both hazardous and solid waste transfers of ownership, which would mean that they can, but do not have to, and certainly would not do a review of every potential new owner. The only time they would do it is when there would be an adverse impact, environmental impact, in their belief, or that it

might be an unsavory company coming in. Those who supported this legislation felt that public awareness is certainly very important and an awareness of a waste facility, solid or hazardous, on neighbors and on the community. A waste facility isn't the best neighbor under any circumstances, but they are necessary and they should be allowed to locate in certain areas with adequate precautions. It is our belief that this amendment allows that without putting undue restrictions on business. If you look at page one of the amendment, 8 is a new section, this authority is not now available to waste management in the area of solid waste. It would allow them in case of a transfer, which, in their opinion would result in adverse environmental impact, to hold a public hearing on such application. That is new for solid waste; it is existent now for hazardous waste and so it would make it consistent throughout.

SENATOR NELSON: Senator Krasker, I would just like to clarify something, are you talking about the transfer of an ownership?

SENATOR KRASKER: Solid waste facility.

SENATOR NELSON: On page 2, I would ask you, under 4A, I am not clear as to why you would delete hazardous and put in solid, I just want an explanation on that?

SENATOR KRASKER: 4A, I was told, was purely hazardous, because in the original bill it was written incorrectly and so that is a correction that was made in legislative services as part of the amendment to the bill.

SENATOR NELSON: Do I understand that if we remove the word hazardous and put in solid that somewhere else hazardous is protected?

SENATOR KRASKER: Hazardous waste already has these stipulations and what we are doing is making it consistent with solid waste.

I think I would like to make a comment now, because I think the Senate President and the members of the Senate should know how really helpful the Senate Research staff has been in all of this and I am really indebted to Steve Witaschek, who briefed me and helped me in an area in which I really didn't have a lot of familiarity. We have got a good staff and I think you all should know.

SENATOR HOUNSELL: Senator Krasker, my concerns begins in the first paragraph, 2A. The cost of such studies, investigations and consultants may be borne by an applicant; this follows the provision

that allows for the division of waste management to employ such consultants that it deems appropriate. My question regarding that paragraph, Senator, is can you give me some sort of impact on how much this would cost people in this State or people who are not deemed to be undesirous of the increase cost that this makes because it will be borne by them?

SENATOR KRASKER: No. I can't give you the answer you want, but I can tell you that in developing this amendment, which was approved by the Department of Environmental Services, that this provision is the same as now exists in hazardous waste. I would say that whatever the cost, it is worth it because solid waste has become big business. We are talking about waste facilities costing millions of dollars that really do have an impact on the community. All we are saying is there is a belief that in the transfer, there will be an adverse affect, there will be a public hearing so that communities are aware of what is coming to their communities.

Senator Dupont moved to recommit.

SENATOR HOUNSELL: I rise in support of this motion of recommit. I know that every Senator in here is concerned about a number of things, but two of those that this issue has addressed, is how do we create a balance of making sure that we are allowing for the environmental protection that we need, and that should be addressed by how we allow permits to operate solid and hazardous waste disposal facilities, but also making sure that as we attempt to do that we don't put adverse conditions upon the productive members of the society, that is, the business man. So, I rise in support and I am sure that my committee stands ready to prepare a recommendation for the floor so that each of you will be comfortable with the vote to protect the environment and to maintain economic integrity.

Adopted.

RECONSIDERATION

Senator White moved reconsideration on HB 502, delegating site plan review powers to special site review committees.

SENATOR WHITE: In the process of clipping and pasting and amending HB 502, the wrong amendment appeared before us last week. Fortunately, we have a very astute member of our committee, Senator Nelson, who spotted that the wrong amendment was in the

calendar, and we were able to move reconsideration the next day. We now have the proper amendment before you and that is the one that we would like to have for the bill.

Adopted.

Senator White moved HB 502 be put on second reading at present time.

Adopted.

Senator White offered a floor amendment.

SENATOR WHITE: You have the floor amendment before you. Basically, it is just a technical change in the bill itself and what it does is it changes the word 'create' to 'authorize'. The one sentence now will read, If a municipality authorizes a site review committee, in accordance with the paragraph, the planning board shall amend or adopt as regulations specify application acceptance and approval procedures, etc. down to the end where it says prior to establishing a committee. Basically, what the bill does is it allows a planning board to set up a special committee to assist them when they come to site plan review. It is a tool that the municipalities wanted. The county municipal government came in with the amendment that they thought was proper to make it really work. We would urge your support of ought to pass with this new amendment.

Floor Amendment to HB 502

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Special Site Review Committee. Amend RSA 674:43 by inserting after paragraph II the following new paragraph:

III. The local legislative body of a municipality may by ordinance or resolution authorize the planning board to delegate its site review powers and duties in regard to minor site plans to a committee of technically qualified administrators chosen by the planning board from the departments of public works, engineering, community development, planning, or other similar departments in the municipality. The local legislative body may further stipulate that the committee members be residents of the municipality. This special site review committee may have final authority to approve or disapprove site plans reviewed by it, unless the local legislative body deems that final approval shall rest with the planning board, provided that the decision of the committee may be appealed to the full

planning board so long as notice of appeal is filed within 20 days of the committee's decision. All provisions of RSA 676:4 shall apply to actions of the special site review committee, except that such a committee shall act to approve or disapprove within 60 days after submissions of applications, subject to extension or waiver as provided in RSA 676:4, I(f). If a municipality authorizes a site review committee in accordance with this paragraph, the planning board shall adopt or amend its regulations specifying application, acceptance and approval procedures and defining what size and kind of site plans may be reviewed by the site review committee prior to authorizing the committee.

AMENDED ANALYSIS

This bill enables the local legislative body of a municipality to authorize the planning board, by ordinance or resolution, to delegate its site review powers and duties in regard to minor site plans to a committee of technically qualified officials chosen by the planning board.

As amended, the bill provides that if a municipality authorizes a site review committee, the planning board shall adopt or amend its regulations specifying application, acceptance and approval procedures and defining what size and kind of site plans may be reviewed by the site review committee prior to authorizing the committee.

Floor amendment adopted. Ordered to Third Reading.

TAKEN FROM THE TABLE

Senator Charbonneau moved to take HB 17 off the table.

Adopted.

HB 17, relative to building codes in municipalities. Ought to Pass with Amendment. Senator Charbonneau for the Committee.

SENATOR CHARBONNEAU: This bill specifies a minimum requirement which must be included in a local building code. Section 1 of the bill; this enforces the idea that a city or town must have a local building code before they can adopt a national building code. The cities and towns have always had this power, but many have not adopted a local building code before they adopted the national code, BOCA and so forth. This list the specifics of the minimums, which the town and cities must have in their own building code including the establishment of a building code of a appeals, the position of

building inspector and a schedule of fees for building permits, inspections and so forth. It also says that a building code may include a requirement for a certificate of occupancy.

Section 2 of the bill; towns and cities now have the power to adopt national building codes by references. This merely expands the national building codes that they may adopt. It also spells out the method of which this adoption may take place.

Section 3 of the bill has been taken out with a part of our amendment. The reason for this is that it was done much more effectively in HB 403, which passed both houses last year. Without taking out that, there might be some confusion, because this section is more poorly written than HB 403.

New section 3 or present section 4; this merely says that any code enacted before the passage of this law shall not be struck down because of the method of its enactment. That building codes enacted or amended at the passage of this bill must use the method of enactment contained herein.

The other part of the amendment deals with the accessibility of the BOCA, and so forth, books.

SENATOR HOUNSELL: I rise in opposition to the amendment. The reason I do that is, I look back on the calendar of the 4th and I remember this bill and I remember reading it at that time, and now that it is off the table my mind is becoming refreshed. I am concerned about how we have planning boards and zoning boards operate in this state. I am concerned about the number of codes and enforcements and regulations that we put upon the people of this state. I am concerned that we are addressing a national plumbing code when I know that the state board for regulating plumbers have been doing diligent effort to make a code in this State that is acceptable and reflective of the people in this State. I become concerned when I see national and federal, and I even become concerned when I see State, telling the local communities how best to operate their business. But, most important, I think at this time, my concern on this bill is that this bill as amended specifies that a violation of any planning board, zoning board of adjustment or building code board of appeals decision, aren't necessarily talking about building, but their decisions in anything, under the zoning statutes shall be subject to the fines and penalties. I don't know exactly what that means,

but this bill, to me, seems to be more government placed upon the shoulders of the people of the State of New Hampshire and I have to oppose it for that reason.

Roll Call requested by Senator Hounsell.
Seconded by Senator Bond.

The following Senators voted yes: Disnard, White, Pressly, Charbonneau, McLane, Podles and Johnson.

The following voted no: Bond, Hounsell, Heath, Freese, Hough, Dupont Chandler, Roberge, Blaisdell, Nelson, Stephen, St. Jean, Torr, Delahunty, Preston and Krasker.

7 Yeas

16 Nays

Amendment Failed.

Senator Hounsell moved to indefinitely postpone.

SENATOR PRESSLY: As it was explained to our committee, it was an effort to make it clear that if you accept a national code, if a community decides to do that, then they must have their own local code in place and that they must have a copy of the book that they have adopted, so that anyone can come and take a look at it. It was totally supported by all of the people who spoke, it was very simple and innocuous explanation that if a municipality does adopt a national code that they must have a copy of it for their people to look at. There was no opposition to this bill.

Adopted.

Senator Stephen moved to take HB 331 off the table.

Adopted.

HB 331, relative to filing returns under the interest & dividends tax. Ought to Pass with Amendment. Senator Stephen for the Committee.

SENATOR STEPHEN: I would like you to defeat the amendment and pass the bill. All the amendment did was increase the personal exemption for the interest in dividends from 1,200 to 1,800 dollars. Although this would benefit the people, but it would reduce the revenues of the State by 3 million dollars. We would like to defeat that.

Amendment failed.

Question: Ought to Pass.

Adopted. Ordered to Third Reading.

COMMITTEE OF CONFERENCE REPORT ON HB 571-FN

The committee of conference to which was referred House Bill 571-FN, An Act relative to the certification and financial management of life care facilities and making an appropriation therefor having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 420-D:1 as inserted by section 2 of the bill by inserting after paragraph XIII the following new paragraphs:

XIV.(a) "Unearned portion of entrance fee" means that portion of the entrance fee which a provider contracts to return to a resident should the resident decide to leave a facility. This may be nothing, or the contract may call for the provider to "earn" a specific percentage of the entrance fee per month.

(b) "Earned portion of entrance fee" means that portion of the entrance fee "earned" by the provider under the terms of the contract, which the provider may retain.

XV. "Just cause" means conduct constituting a criminal offense involving moral turpitude, gross dereliction of duty, or gross abuse of authority.

Amend RSA 420-D:2, I as inserted by section 2 of the bill by replacing it with the following:

I. No person or provider may solicit funds, accept payments of any kind, or otherwise engage in providing any form of continuing care without a certificate of authority issued under this chapter. An application for a certificate shall include the proposed disclosure statement required under RSA 420-D:4 and in addition to any other state or federal licensure or certification which may be required, a statement indicating that all of the requirements under this chapter have been met. The commissioner shall take prompt action on requests for a certificate and shall, within a reasonable time, issue a certificate or a written rejection. If he rejects an application, he may do so outright or state the conditions which must be met before a certificate shall be issued. The applicant may request reconsidera-

tion and shall be granted a hearing in accordance with rules adopted by the commissioner. Certificates issued under this section shall continue in effect until revoked by the commissioner or until sale or transfer of management control to another owner or provider.

Amend RSA 420-D:5, I(i) as inserted by section 2 of the bill by replacing it with the following:

(i) Failure to make a new application for certificate of authority in accordance with RSA 420-D:13 when there is a sale, transfer of ownership, or partial ownership, or transfer of control.

Amend RSA 420-D:10, III as inserted by section 2 of the bill by replacing it with the following:

III. Release of escrowed amounts to the provider shall be made as follows:

(a) For living units that have been previously occupied, when the new resident makes the first monthly payment.

(b) For living units not previously occupied:

(1) When aggregate fees received or receivable equal 50 percent of total entrance fees due at full occupancy, except that any entrance fee payments that are less than 35 percent of the amount due from a resident will not be counted; or

(2) When entrance fees plus proceeds of any first mortgage or other long term loan in lieu of a first mortgage plus other funds on hand equal 1/2 of the total cost of the facility, plus 1/2 of the start-up losses shown in the certificate of authority application; or

(3) When a permanent mortgage or other long term loan commitment has been received and the mortgagee's commitment conditions prior to disbursement have been satisfied, other than completing construction and closing purchase.

Amend RSA 420-D:21 as inserted by section 2 of the bill by replacing it with the following:

420-D:21 Investigations; Subpoenas. The commissioner may make such investigations as he deems necessary both within and outside the state. For the purpose of any investigation or proceeding under this chapter, the commissioner may administer oaths, subpoena witnesses, compel attendance, take evidence and require the production of necessary material. All actions may be enforced by any court having jurisdiction. The records of any active investigation and the records necessary to complete such an investigation are confidential and shall not be subject to public inspection under RSA 91-A for as

long as reasonably necessary to complete the investigation. Upon completion of the investigation, those records which are not exempt from public disclosure pursuant to RSA 91-A:5, IV shall be subject to public inspection.

Amend RSA 420-D:22 as inserted by section 2 of the bill by replacing it with the following:

420-D:22 Records and Assets to be Kept Within State. All records and assets of a provider shall be established and kept in the state of New Hampshire and shall not be removed from this state by a provider or his agent unless agreed to in writing by the commissioner prior to such removal. The commissioner shall consent to such removal only if the provider submits satisfactory evidence that the removal will facilitate a more economical operation and will not diminish the service or protection given to the residents remaining in this state. The commissioner may order the return of the records and assets if such return is in the best interests of the residents or of the state.

Amend RSA 420-D as inserted by section 2 of the bill by inserting after RSA 420-D:26 the following new section:

420-D:27 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or application, and to this end the provisions of this chapter are severable.

Amend the bill by replacing all after section 5 with the following:

6 Prospective Repeal. RSA 420-D:17, XVIII, relative to rules for any other matter necessary to the administration of RSA 420-D, is repealed.

7 Effective Date.

I. Section 3 of this act shall take effect upon its passage.

II. Section 6 of this act shall take effect January 1, 1991.

III. The remainder of this act shall take effect January 1, 1989.

*Conferees on the Part
of the Senate*

Sen. Delahunt, Dist. 22
Sen. Freese, Dist. 4
Sen. Blaisdell, Dist. 10
Rep. Copenhagen, Graf. 12

*Conferees on the Part
of the House*

Rep. Fraser, Merr. 6
Rep. Townsend, Sull. 1
Rep. Parks, Straf. 6

Senator Delahunty moved to concur.

Adopted.

TAKEN FROM THE TABLE

Senator Freese moved to take HB 41 off the table.

Adopted.

HB 41, providing that the condemnee shall have first option to purchase any property condemned by eminent domain, if said property is abandoned for any reason by comdemnor. Ought to Pass. Senator Freese for the Committee.

Senator Freese offered a floor amendment.

SENATOR FREESE: The amendment that was voted on last week was killed. We discovered after it was killed that the amendment was wrong and the bill was put on the table. So, today, although I oppose the bill I believe that the consensus of the Senate is that it should be adopted. At the hearing we were asked if the bill was acted upon that his heirs and assigns should be added to the bill. All this amendment does, it add his 'heirs' and 'assigns'. So, I am asking that this amendment be adopted.

SENATOR JOHNSON: I think I follow what you said Senator Freese, but I would just like to have you assure me if you would please, that the original intent of this bill is being carried out but there is some safety language in here, but in the final analysis, the original owner will have the right of first refusal on property that the state no longer has a need for within a ten year period.

SENATOR FREESE: That is correct. This amendment that was in the calendar said three years and that is wrong; it came over to us ten years. The original bill that we put on the table had ten years on it. This is only being added to the bill as we were asked to do in the hearing in the Senate, in case we recommended the bill and the bill was adopted by the Senate.

Floor Amendment to HB 41

Amend the title of the bill by replacing it with the following:

AN ACT

providing that the condemnee, his heirs and assigns shall have first option to purchase any property condemned by eminent domain, if said property is abandoned for any reason by condemnor.

Amend RSA 498-A:12 as inserted by section 1 of the bill by replacing it with the following:

498-A:12 Abandonment of Project.

I. If a condemnor has condemned a fee and thereafter abandons the purpose for which the property has been condemned, the condemnor may dispose of it by sale or otherwise; provided, however, that if the property has not been substantially improved, it may not be disposed of within [3] 10 years of condemnation without first being offered to the condemnee, his heirs and assigns at the same price paid to the condemnee by the condemnor. The condemnee, his heirs and assigns shall be served with notice of the offer in the same manner as prescribed for the service of notices in RSA 498-A:4, and shall have 90 days after receipt of such notice to make the written acceptance thereof.

II. If a condemnor has condemned a fee and thereafter abandons the property, after the purpose is served for which the property was condemned, or abandons the property for any reason within 10 years of condemnation, the property may not be disposed of without first being offered to the condemnee, his heirs and assigns at a price equal to the current appraised value of the property including any improvements made thereon. The condemnee, his heirs and assigns shall be served notice pursuant to RSA 498-A:12, I.

AMENDED ANALYSIS

This bill, as amended, provides that the condemnee, his heirs and assigns shall have first option to purchase property taken by eminent domain, if the condemnor abandons any property within the 10 year period.

The condemnee, his heirs and assigns shall pay the current appraised property value including any improvements at the time the property is abandoned by condemnor and offered for sale.

Floor amendment adopted. Ordered to Third Reading.

RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the

present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, February 18, 1988 at 1:00 p.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 1038-FN, relative to credit services organizations.

HB 741-FN, relative to horsepower of motors on Spectacle Pond in the towns of Enfield and Grafton.

HB 968-FN, authorizing imposition of administrative fines by the water well board.

HB 574-FN, relative to registering and the numbering of boats operating on state waters.

SB 355-FN, appropriating additional sweepstakes revenues for foundation aid.

HB 705-FN, relative to itinerant vendors.

HB 499, relative to return of recovered property.

HB 769-FN, relative to rulemaking authority for the division of elderly and adult services.

HB 815-FN, relative to the joint committee on elderly affairs.

HB 747, relative to the operation of bingo games at agricultural fairs.

HB 914, relative to interest due with a return or estimated taxes in the business profits tax and the interest and dividends tax, and relative to a definition of the United States Internal Revenue Code for business profits tax purposes.

HB 806, relative to the price of wine.

HB 502, delegating site plan review powers to special site review committees.

HB 331, relative to filing returns under the interest and dividends tax.

HB 41, providing that the condemnee, his heirs and assigns shall have first option to purchase any property condemned by eminent domain, if said property is abandoned for any reason by condemnor.

Senator Dupont moved reconsideration on HB 747, relative to the operation of bingo games at agricultural fairs.

SENATOR DUPONT: Earlier, we had a debate on HB 747 which was relative to the operation of bingo games at agricultural fairs, and as I often do I got so hung up on that section that dealt with the person being present in the facility where the bingo game is being held, that I overlooked a part of the bill that was even more severe. We killed the amendment which required that they be present in the facility where the bingo game was being held, but we left in a provision that would make a fair responsible for the financial reporting of any bingo game held on their premises. So, basically, what we would be saying is, if you bring a church in and they hold the bingo game, the fair then would be responsible for the financial reporting and the financial liability, I assume, for the actions of that church. At this time I would like to urge all of the members of the Senate to vote affirmative, which is unusual on reconsideration, because I would like to bring in another motion on this bill.

Adopted.

Senator Dupont moved HB 747 inexpedient to legislate.

Adopted.

Senator Blaisdell moved reconsideration on SB 355, appropriating additional sweepstakes revenues for foundation aid.

Motion failed.

Senator Dupont moved to adjourn.

Adopted.

Adjourned.

Thursday, February 18, 1988

The Senate met at 1:00 p.m.

A quorum was present.

Senator Hough and Senator St. Jean were excused for the day.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, it seems so good to have the Primary over, here in New Hampshire! Now we can have a period of peace without the clamor and Bally Hoo from the candidates and their workers! Have a good restful time with your families as we take a recess from our duties! God bless us all.

Amen

Senator Chandler led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

HOUSE MESSAGE

INTRODUCTION OF HOUSE BILLS

Senator Dupont offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 203-FN through 1203-FN-A shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 203-FN, relative to the premature shutdown and decommissioning costs of any nuclear electric facility in New Hampshire. (Internal Affairs)

HB 611-FN, relative to administrative forfeiture of certain items used in connection with drug offenses. (Judiciary)

HB 744, relative to contracts for the retail installment sales of motor vehicles. (Transportation)

HB 748-FN-A, relative to the division of historical resources, creating the position of state curator, and making an appropriation therefor. (Executive Departments)

HB 759-FN-A, relative to constructing facilities for the office of the chief medical examiner and making an appropriation therefor. (Internal Affairs)

HB 765-FN-A, relative to the printing of "New Hampshire Historical Markers", and making an appropriation therefor. (Capital Budget)

HB 845-FN, relative to the department of corrections, allowing psychologists to conduct examinations for purposes of nonemergency involuntary admissions, and making an appropriation to the department of corrections. (Judiciary)

HB 850, exempting motor vehicles carrying washed sand, screened loam, and crushed stone from obtaining a cargo insurance policy or indemnity bond. (Insurance)

HB 855-FN, relative to timber sales on fish and game department land. (Development, Recreation and Environment)

HB 859-A, making an appropriation for the purchase of a building for the division for children and youth services. (Capital Budget)

HB 863-FN-A, relative to an intrastate computer system within the division of state police to record outstanding arrest warrants for misdemeanors, establishing a police communications specialist position within the division of state police, and making an appropriation therefor. (Executive Departments)

HB 879-FN, establishing a study committee relative to the promotion of electric vehicles in the state. (Transportation)

HB 887, relative to the jurisdiction of marine patrol officers. (Development, Recreation and Environment)

HB 896, permitting a corporation to limit the liability of its directors in its articles of incorporation. (Judiciary)

HB 966, relative to cellular radio telecommunications services. (Internal Affairs)

HB 982, relative to vehicles impeding the flow of traffic. (Transportation)

HB 1008-FN, relative to after market parts. (Transportation)

HB 1014, prohibiting ski craft on Nubanusit Lake and Spoonwood Pond in the towns of Nelson and Hancock. (Development, Recreation and Environment)

HB 1023, prohibiting the use of ski craft on Silver Lake in the town of Harrisville. (Development, Recreation and Environment)

HB 1041-FN-A, establishing a committee to study and develop a plan for the protection of the Upper Ammonoosuc River watershed. (Development, Recreation and Environment)

HB 1044, relative to the minimum age for operating a power boat in the state. (Transportation)

HB 1075-FN, relative to the use of ski craft on the lakes and ponds of the state. (Development, Recreation and Environment)

HB 1134-FN, relative to walking disability motor vehicle plates, cards, and parking privileges. (Transportation)

HB 1193-FN, relative to chiropractic and making an appropriation therefor. (Executive Departments)

HB 1203-FN-A, relative to the payment of a claim against the state and making an appropriation therefor. (Finance)

ENROLLED BILL REPORTS

HB 240, relative to sewage disposal systems on waterfront properties and expanded use of sewage disposal systems.

HB 714, relative to assessment of open space land and the adoption of rules by the commissioner of revenue administration for the purposes of RSA 79-A.

SB 237, relative to the controlled drug act.

COMMITTEE REPORTS

HB 615-FN, relative to complaints of insurance unfair trade practices. Inexpedient to Legislate. Senator Freese for the Committee.

SENATOR FREESE: This bill, as amended in the House, requires the insurance commissioner to issue a written finding, within sixty days of receiving a written complaint, alleging an unfair trade practice and, to keep the detailed records on each complaint received. The bill also deletes a provision which allows the court to examine the reasonableness of attorney's fees charged to claimants in unfair insurance trade practices. The insurance department testified that they do keep a log of complaints and do send written replies, as necessary. They reported many of the complaints are received on the telephone and are often the matter of understanding the terminology or feel they have not been getting the prompt service that they deserve. In most cases, the complaints and concerns are readily solved by a telephone call from the insurance department to the insurance company in question. It was felt by the committee, by formalizing the procedure, the insurance department would have less

flexibility to handle problems on a case by case basis. The committee also felt that the present provision in the law, which allows the court to examine the reasonableness of attorney's fees charged to claimants in unfair insurance trade practices actions should remain on the books. Thus the committee recommends inexpedient to legislate. We hope you will support the committee's report.

Adopted.

HB 872-FN, regulating risk retention groups and purchasing groups. Ought to Pass with Amendment. Senator Bond for the Committee.

SENATOR BOND: HB 872 gives the department of insurance some control over risk retention groups, which are essentially insurance companies put together by businesses of common interest. At the present time, there is a model statute put together by the National Association of Insurance Commissioners. This an adoption of it by the State, with some modification which is in the amendment. After you approve the amendment, I have a further floor amendment, which only changes the effective date. So, I'd urge you to pass the amendment.

Amendment to HB 872-FN

Amend the bill by replacing section 4 with the following:

4 New Sections; Filing with the National Association of Insurance Commissioners. Amend RSA 400-A by inserting after section 36 the following new sections:

400-A:36-a Filing Requirements.

I. Each domestic, foreign and alien insurer who transacts insurance in this state shall annually on or before March 1 of each year, file with the National Association of Insurance Commissioners a copy of its annual statement convention blank, along with such additional filings as prescribed by the commissioner for the preceding year. The information filed with the National Association of Insurance Commissioners shall be in the same format and scope as that required by the commissioner and shall include the signed jurat page and, if required by any state in which the insurer transacts business, the actuarial certification. Any amendments and addenda to the annual statement filing subsequently filed with the commissioner shall also be filed with the National Association of Insurance Commissioners.

II. Foreign insurers that are domiciled in a state which has a law substantially similar to RSA 400-A:36-a, I shall be deemed in compliance with this section.

400-A:36-b Immunity. In the absence of actual malice, members of the National Association of Insurance Commissioners, their duly authorized committees, subcommittees, and task forces, their delegates, employees, and all others charged with the responsibility of collecting, reviewing, analyzing, and disseminating the information developed from the filing of the annual statement convention blanks shall be acting as agents of the commissioner under the authority of RSA 400-A:36-a and shall not be subject to civil liability for libel, slander, or any other cause of action by virtue of their collection, review, and analysis or dissemination of the data and information collected from the filings required under such section.

400-A:36-c Confidentiality. All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the department by the National Association of Insurance Commissioners' Insurance Regulatory Information System are confidential and shall not be disclosed by the department.

5 New Paragraphs; Definitions. Amend RSA 405:45 by inserting after paragraph V the following new paragraphs:

VI. "Qualified United States financial institution," for the purposes of RSA 405:48, III, means an institution that:

(a) Is organized or, in the case of a United States office of a foreign banking organization, licensed, under the laws of the United States or of any state;

(b) Is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and

(c) Has been determined by either the commissioner, or the Securities Valuation Office of the National Association of Insurance Commissioners, to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

VII. "Qualified United States financial institution" means, for purposes of those provisions of this chapter specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

(a) Is organized, or, in the case of a United States branch or agency office of a foreign banking organization, licensed, under the laws of the United States or of any state and has been granted authority to operate with fiduciary powers; and

(b) Is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

6 Credit for Reinsurance. Amend RSA 405:46, II to read as follows:

II. The reinsurance is ceded to a group of individual unincorporated underwriters which maintains a trust fund in a [United States bank or trust company] qualified United States financial institution as defined in RSA 405:45, VII for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The group of individual unincorporated underwriters shall report annually to the commissioner information substantially the same as that required to be reported on the NAIC annual statement form by the licensed insurers to enable the commissioner to determine the sufficiency of the trust fund. The trust shall consist of a trustee account representing the group's liabilities attributable to business written in the United States and, in addition, include a trustee surplus of not less than \$100,000,000; and the group shall make available to commissioner an annual certification by the group's domiciliary regulator and its independent public accountants of the solvency of each underwriter. Such trust shall be established in [a United States bank or trust company which is a member of the federal reserve system in] a form approved by the commissioner of insurance. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trustees of the trust shall have legal title to the trust assets for the benefit of its United States policyholders and ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the commissioner. The trust described herein must remain in effect for as long as the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust. No later than February 28 of each year, the trustees of the trust shall report to the commissioner in writing setting forth the balance of the trust and listing the trust's investments at the preceding year's end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31; or

7 Reduction of Liability; Security. Amend the introductory paragraph of RSA 405:48, to read as follows:

A reduction from liability for the reinsurance ceded to an assuming insurer not meeting the requirements of RSA 405:46 shall be allowed in an amount not exceeding the liabilities carried by the ced-

ing insurer for funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder, if such security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer, and, in the case of a trust, held in a [United States bank or trust company that is a member of the federal reserve system] qualified United States financial institution as defined in RSA 405:45, VII. This security may be in the form of:

8 Evergreen Letters of Credit. Amend RSA 405:48, III to read as follows:

III. Clean, irrevocable, unconditional evergreen letters of credit, issued or confirmed by a bank or trust company that is a [member of the federal reserve system; or] qualified United States financial institution as defined in RSA 405:45, VI.

9 Effective Date.

I. Section 4 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect January 1, 1989.

AMENDED ANALYSIS

This bill allows the insurance commissioner to regulate risk retention groups and purchasing groups doing business in this state, to the extent permitted by the Federal Liability Risk Retention Act of 1986.

This bill adopts the National Association of Insurance Commissioners' Model Risk Retention Act. It is a request of the insurance department.

The bill, as amended, establishes filing, immunity, and confidentiality criteria regarding insurers and the National Association of Insurance Commissioners. It also defines qualified United States financial institutions for reinsurance purposes.

Amendment adopted.

Senator Bond offered a floor amendment.

SENATOR BOND: The floor amendment which was just passed out to you does only one thing. On the last page, the effective date, section nine, this act shall take effect upon its passage. This amendment is also at the request of the insurance commissioner.

Floor Amendment to HB 872-FN

Amend the bill by replacing section 4 with the following:

4 New Sections; Filing with the National Association of Insurance Commissioners. Amend RSA 400-A by inserting after section 36 the following new sections:

400-A:36-a Filing Requirements.

I. Each domestic, foreign and alien insurer who transacts insurance in this state shall annually on or before March 1 of each year, file with the National Association of Insurance Commissioners a copy of its annual statement convention blank, along with such additional filings as prescribed by the commissioner for the preceding year. The information filed with the National Association of Insurance Commissioners shall be in the same format and scope as that required by the commissioner and shall include the signed jurat page and, if required by any state in which the insurer transacts business, the actuarial certification. Any amendments and addenda to the annual statement filing subsequently filed with the commissioner shall also be filed with the National Association of Insurance Commissioners.

II. Foreign insurers that are domiciled in a state which has a law substantially similar to RSA 400-A:36-a, I shall be deemed in compliance with this section.

400-A:36-b Immunity. In the absence of actual malice, members of the National Association of Insurance Commissioners, their duly authorized committees, subcommittees, and task forces, their delegates, employees, and all others charged with the responsibility of collecting, reviewing, analyzing, and disseminating the information developed from the filing of the annual statement convention blanks shall be acting as agents of the commissioner under the authority of RSA 400-A:36-a and shall not be subject to civil liability for libel, slander, or any other cause of action by virtue of their collection, review, and analysis or dissemination of the data and information collected from the filings required under such section.

400-A:36-c Confidentiality. All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the department by the National Association of Insurance Commissioners' Insurance Regulatory Information System are confidential and shall not be disclosed by the department.

5 New Paragraphs; Definitions. Amend RSA 405:45 by inserting after paragraph V the following new paragraphs:

VI. "Qualified United States financial institution," for the purposes of RSA 405:48, III, means an institution that:

(a) Is organized or, in the case of a United States office of a foreign banking organization, licensed, under the laws of the United States or of any state;

(b) Is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and

(c) Has been determined by either the commissioner, or the Securities Valuation Office of the National Association of Insurance Commissioners, to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

VII. "Qualified United States financial institution" means, for purposes of those provisions of this chapter specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

(a) Is organized, or, in the case of a United States branch or agency office of a foreign banking organization, licensed, under the laws of the United States or of any state and has been granted authority to operate with fiduciary powers; and

(b) Is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

6 Credit for Reinsurance. Amend RSA 405:46, II to read as follows:

II. The reinsurance is ceded to a group of individual unincorporated underwriters which maintains a trust fund in a [United States bank or trust company] qualified United States financial institution as defined in RSA 405:45, VII for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The group of individual unincorporated underwriters shall report annually to the commissioner information substantially the same as that required to be reported on the NAIC annual statement form by the licensed insurers to enable the commissioner to determine the sufficiency of the trust fund. The trust shall consist of a trustee account representing the group's liabilities attributable to business written in the United States and, in addition, include a trustee surplus of not less than \$100,000,000; and the group shall make available to commissioner an annual certification by the group's domiciliary regulator and its independent public accountants of the solvency of each underwriter. Such trust shall be established in [a United States bank or trust company which is a member of the federal reserve system in] a form approved by the commissioner of insurance. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trustees of the trust shall have legal title to the trust assets for the

benefit of its United States policyholders and ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the commissioner. The trust described herein must remain in effect for as long as the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust. No later than February 28 of each year, the trustees of the trust shall report to the commissioner in writing setting forth the balance of the trust and listing the trust's investments at the preceding year's end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31; or

7 Reduction of Liability; Security. Amend the introductory paragraph of RSA 405:48, to read as follows:

A reduction from liability for the reinsurance ceded to an assuming insurer not meeting the requirements of RSA 405:46 shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer for funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder, if such security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer, and, in the case of a trust, held in a [United States bank or trust company that is a member of the federal reserve system] qualified United States financial institution as defined in RSA 405:45, VII. This security may be in the form of:

8 Evergreen Letters of Credit. Amend RSA 405:48, III to read as follows:

III. Clean, irrevocable, unconditional evergreen letters of credit, issued or confirmed by a bank or trust company that is a [member of the federal reserve system; or] qualified United States financial institution as defined in RSA 405:45, VI.

9 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill allows the insurance commissioner to regulate risk retention groups and purchasing groups doing business in this state, to the extent permitted by the Federal Liability Risk Retention Act of 1986.

This bill adopts the National Association of Insurance Commissioners' Model Risk Retention Act. It is a request of the insurance department.

The bill, as amended, establishes filing, immunity, and confidentiality criteria regarding insurers and the National Association of Insurance Commissioners. It also defines qualified United States financial institutions for reinsurance purposes.

Floor amendment adopted. Ordered to Third Reading.

HB 756, prohibiting harassment of police dogs or horses. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: Basically, the amendment now is the whole bill, which you will find on page seven of today's calendar. We have changed the title of the bill because the House had changed, in its wisdom, the content of the bill, so the title now deals with prohibiting interference with police dogs or horses. We had a very good example of how the police dogs work. We had a police dog in Judiciary and showed what he can do to help confront crime today. The problem is that sometimes the criminals will kick a dog, for instance, that is to sniff out drugs and he can no longer sniff out drugs. The other reason we put a change in it was they had police departments and we figured that most of the judicial thing covers law enforcement, so that is in the amendment. Also, to get some of the dogs angry, they beat on the cars or the car windows, so we added the words, 'who willfully interferes or attempts to interfere', to cover that problem that they have with the police dogs. We do have police horses down in the seacoast area, which are very effective and we're just trying to protect the animals for the law enforcement agencies. We urge your acceptance of the amendment on page seven and the committee report of ought to pass as amended.

AMENDMENT TO HB 756

Amend the title of the bill by replacing it with the following:

AN ACT

prohibiting interference with
police dogs or horses.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Police Dogs or Horses. Amend RSA 644 by inserting after section 8-c the following new section:

644:8-d Interference with Police Dogs or Horses. Whoever negligently tortures, beats, kicks, strikes, mutilates, injures, disables or otherwise mistreats a dog or horse owned or employed by or on

behalf of a law enforcement agency or whoever willfully interferes or attempts to interfere with the lawful performance of such dog or horse shall be guilty of a misdemeanor for each offense.

2 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill makes it a misdemeanor to negligently abuse a dog or horse owned or employed by or on behalf of a law enforcement agency or to willfully interfere with or attempt to interfere with the lawful performance of such dog or horse.

Amendment adopted. Ordered to Third Reading.

HB 767, relative to the contracts made by non-profit corporations. Ought to Pass. Senator Preston for the Committee.

SENATOR PRESTON: This bill authorizes non-profit corporations to become surety guarantors. As an example, hospitals today are in the business of more than just running a hospital, they might have health stops or clinics and, this allows the main corporation to guarantee for the other, otherwise they'd buy higher interest rates and so forth. We asked if it would mean any additional liabilities for the boards, or members that serve on the boards, and they said, to the contrary, no. It's supported by the State loan program folks, it's supported by the Hospital Associations, the Red Cross and others. So, I guess it keeps money, lessens the liability and allows them to borrow money at cheaper interest rates.

Adopted. Ordered to Third Reading.

HB 904-FN, relative to the Vermont state income tax. Ought to Pass. Senator Preston for the Committee.

SENATOR PRESTON: I just want the members of the Senate to note that this is a printing error to 904. It says, relative to the examination of jurors. It's relative to the Vermont state income tax, as the Clerk said. Senator Dupont has a floor amendment that is not ready yet and I would respectfully request your support to move to table at this time.

CHAIR: We can pass over it, if you'd like.

SENATOR PRESTON: That's fine.

Senator Preston moved to pass over HB 904-FN.

Adopted.

HB 848, relative to burials on private property. Ought to Pass with Amendment. Senator Heath for the Committee.

SENATOR HEATH: This bill, basically, goes in to the towns where there are no zoning ordinances and makes some restrictions on where you can have a private burial ground. It restricts their setback from the highway and their setback from groundwater supplies. The only thing that is contained in the amendment is that the committee felt that the setback from property lines, that were not highway lines, were not water supply areas, was really a local jurisdictional matter and it's addressed in zoning, if the town chooses to do it. The State has an interest in highway setbacks, obviously, and groundwater supplies, so that's what the bill does.

AMENDMENT TO HB 848

Amend RSA 289:2-a as inserted by section 1 of the bill by replacing it with the following:

289:2-a Location of Burial Site. Burials on private property, unless in an existing burial ground, shall comply with local zoning regulations. In the absence of such regulations, such burial sites shall not be closer than 100 feet from the right-of-way of any highway or closer than 50 feet from a known source of water, and the location of the burial site shall be recorded in the deed to the property upon transfer of said property to another person.

AMENDED ANALYSIS

The bill, as amended, requires burials on private property to comply with local zoning regulations. In the absence of such regulations this bill prohibits the burial of human remains on private property, other than an established cemetery, that lies within 100 feet of the right-of-way of any highway, or closer than 50 feet from a water source.

The bill further requires that a burial site be recorded in any deed transferring property ownership.

Amendment adopted. Ordered to Third Reading.

HB 817-FN, relative to coordinating programs for the elderly. Ought to Pass. Senator Krasker for the Committee.

SENATOR KRASKER: HB 817 is really an outgrowth of work that was done in the interim, by the committee studying laws affecting the elderly. Senator Chandler, Senator Podles and I all served on that committee. The bill would require the department of health and human services to establish procedures, policies, plans to coordinate the programs affecting the elderly in New Hampshire. What we discovered during our study was that there are many laws on the books, there are many programs and they seem to operate parallel to one another, but they don't always interrelate. That's the aim of this legislation. I think another critical clause in the bill is to assist the elderly at the lowest level of care, consistent with their needs. Certainly, that might be other than nursing home care. It's very possible that this bill can become the cornerstone for long term care, particularly for the elderly. It, as amended, requires a biennial report by the commissioner of health and human services, and Charles Weatherill reported to our committee that they will be able to do this reporting within their budget and it will take no additional funds, so I'd urge it's adoption.

Adopted. Ordered to Third Reading.

HB 858-FN, relative to fetal alcohol syndrome. Ought to Pass with Amendment. Senator Bond for the Committee.

SENATOR BOND: This bill requires town and city clerks to distribute a brochure relative to fetal alcohol syndrome, prepared by the division of public health services, in conjunction with the department of drug and alcohol abuse, to make wedding couples aware of the hazards of alcohol consumption in pregnancy. It was amended in the House, a section was added which would have required an affidavit. The committee believes that the affidavit would be superfluous and that the bill, without that addition, which would require changing of existing marriage licenses and so forth, should be amended out. So, the amendment in the calendar, removes the affidavit requirement. We urge your support of the amendment.

AMENDMENT TO HB 858-FN

Amend RSA 457:23, II as inserted by section 2 of the bill by replacing it with the following:

II. In addition to the requirements under paragraph I, no marriage license shall be issued until a brochure prepared by the division of public health services under RSA 132:2, XI concerning fetal alcohol syndrome has been given to both parties.

Amendment adopted. Referred to Finance (Rule #24)

TAKEN FROM THE TABLE

Senator Charabonneau moved to take HB 58 off the table.

Adopted.

HB 58, relative to the disqualification of local land use board members. Ought to Pass. Senator Charbonneau for the Committee.

SENATOR CHARBONNEAU: HB 58 is a re-referred bill. We had a hearing and we did not have any opposition to this bill, whatsoever. I will go, if you want me to, step by step, or just a very short analysis. It's a very, very simple bill. In paragraph one, new wording adds planning boards and historic district commissions that can have members disqualified. It also adds that the disqualified shall not participate in the decisions, as well as not sit at the hearing. It adds specific reasons for disqualifications, pecuniary interests and direct personal interests. Present law says that a member would be disqualified for any cause which would not allow him to sit as a juror, should this matter come to trial.

SENATOR BLAISDELL: Senator Charbonneau, the analysis on the original bill that was handed out to me says that it is required that a person must be retired from the real estate development business for five years before he may become a member of the planning board?

SENATOR CHARBONNEAU: No, that's the wrong bill. We had the new one.

SENATOR BLAISDELL: So, in the new bill, there's nothing in there that says anything about he has to be retired for five years?

SENATOR CHARBONNEAU: No. This was amended in the House to, relative to the membership on planning boards.

SENATOR HOUNSELL: Senator Charbonneau, I apologize for my confusion but I was wondering if you could briefly restate what this bill does, as amended?

SENATOR CHARBONNEAU: I certainly will. Paragraph one, new wording adds planning boards and historic district commissions that can have members disqualified. It also adds that the disqualified shall not participate in the decision, as well as not sit at the hearings.

It adds specific reasons for disqualification, pecuniary interest and direct personal interest. Present law says, that a member would be disqualified for any cause which would not allow him to sit as a juror, should this matter come to trial. Presumably now, you would not be allowed to sit as a juror, should you have a direct personal or pecuniary interest in this matter. However, with this new bill, it would be very specific.

Paragraph two in the bill, gives another method by which a board may to decide to disqualify a member, nonbinding vote requested by a board member.

Paragraph three, present law, we'll go into that. Presumably, this bill would give aid and comfort to those who felt that they, themselves, might have a problem and possibly should be disqualified, as well as to other members of the board who feel that some member of the board, other than themselves, should be disqualified. While leaving the decision to the board, this bill does seem to open this area for discussion, by the board. According to Bernard Wild, Esquire, New Hampshire Municipal Association, the case of Winslow versus Holderness, decided about three years ago, said that if any member of a board has a conflict and does not vote, it poisons the entire vote.

SENATOR HOUNSELL: Senator, I haven't really made my mind up on this, but as I was listening to your statement and reading the bill, I became aware that this may be a bill that I would like to attach, what I count as a most germane amendment to, but I haven't had the time to prepare the floor amendment today, and I was wondering if you would object if I was to move to table this and give me the courtesy to prepare a floor amendment?

SENATOR CHARBONNEAU: We have others that we can attach your amendment to.

SENATOR HOUNSELL: Can you tell me which others we might have that I could address that to, Senator, and, why we couldn't do it on this one, which I understand to be most germane?

SENATOR PRESSLY: Our committee has quite a few bills that many people have asked to add on related items to. We're working very hard to do that very thing in committee and we'd be happy to have your amendment and place it where it would be appropriate and have a proper hearing. We'd be happy to do that for you.

SENATOR CHANDLER: Senator, on page two of the amended version, it has the board take a vote on whether one member would

have a conflict of interest or not. Then on the sixth line it says, such vote shall be advisory and nonbinding. What's the sense of taking the vote if it doesn't mean anything?

SENATOR PRESLLY: Senator Chandler, the word advisory and nonbinding, just as in all of the laws related to this, the final decision rests with the member, himself or herself. I think that is appropriate in any type of legislation regarding this. There is the ability to discuss and to debate, but the final decision to disqualify one's self must rest with that individual. Therefore, that's what this says.

SENATOR CHANDLER: In other words, you're leaving the decision up to a real estate man to decide?

SENATOR PRESSLY: The decision would be left up to the person in question of being disqualified, no matter who they were.

SENATOR JOHNSON: The provision that Senator Chandler asked about is very similar to our own Senate rules, where the burden is on the individual member to make a decision, in regard to conflict of interest. So, I think Senator Chandler, in reiteration, this language is very similar and consistent to our own Senate rules and I think it's perfectly o.k.

Senator Hounsell moved to lay HB 58 on the table.

Roll Call requested by Senator Charbonneau.

Seconded by Senator Blaisdell.

The following Senators voted yes: Bond, Hounsell, Heath, Freese, Dupont, Chandler, Disnard, Blaisdell, McLane, Stephen, Torr, Delahunty, Preston and Krasker.

The following voted no: Roberge, White, Pressly, Nelson, Charbonneau, Podles, and Johnson.

14 Yeas

7 Nays

Adopted.

COMMITTEE REPORTS

HB 904-FN, relative to the Vermont state income tax. Ought to Pass. Senator Preston for the Committee.

Senator Dupont moved to lay HB 904-FN on the table.

Adopted.

HOUSE REQUESTS CONCURRENCE WITH AMENDMENT

SB 256, relative to voting in special school districts.

Senator Freese moved to concur.

Adopted.

RESOLUTION

Senator Dupont moved that the rules of the Senate be so far suspended as to allow all bills to be placed on third reading and final passage, and all titles be the same as adopted, and that they be passed at the present time.

Adopted.

Third Reading and Final Passage

HB 872-FN, regulating risk retention groups and purchasing groups.

HB 756, prohibiting interference with police dogs or horses.

HB 767, relative to the contracts made by non-profit corporations.

HB 848, relative to burials on private property.

HB 817-FN, relative to coordinating programs for the elderly.

Senator Dupont moved that the Senate be in recess until 1:00 pm, Thursday, March 10, 1988 for the sole purpose of introducing legislation, referring bills to committee, scheduling hearings and accepting enrolled bill reports.

Adopted

Recess

Out of Recess

Thursday, February 18, 1988

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

Senator Chandler offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 812 through HCR 11 shall be by

this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 812, relative to mutual savings banks. (Banks)

HB 832, establishing a 10-year bridge construction and reconstruction plan. (Capital Budget)

HB 853-FN, exempting the WIC program from state indirect cost rate requirements. (Public Institutions, Health and Human Services)

HB 965-FN, establishing a study committee to examine the issue of parenting skills training. (Education)

HB 991-FN, relative to dental benefits for persons receiving medical assistance. (Insurance)

HB 1016-FN, relative to municipal borrowing due to certain bankruptcies. (Banks)

HB 1053-FN, establishing the position of chief boiler inspector. (Executive Departments)

HB 1082-FN, relative to irradiated food. (Public Institutions, Health and Human Services)

HB 1093-FN, relative to reporting requirements of corporations having securities registered in this state. (Banks)

HB 1150-FN, permitting the attorney general to hire part-time attorney generals. (Internal Affairs)

HB 1154, permitting the Waterville Estates village district to exceed its debt limitation. (Executive Departments)

HB 1178, relative to counting absentee ballots before the polls close. (Executive Departments)

HB 1190, relative to the Belknap county attorney. (Executive Departments)

HB 1194, relative to the emergency treatment of step-children.
(Public Institutions, Health and Human Services)

HB 1199-FN, relative to unemployment compensation. (Insurance)
HCR 11, concerning the budget of the United States. (Judiciary)

HOUSE REFUSES TO CONCUR

SB 170-FN, relative to licensure of mental health professionals.

Recess

Friday, February 19, 1988

Out of Recess.

HOUSE MESSAGE

INTRODUCTION OF HOUSE BILLS

Senator Chandler offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 310-A through 1202-FN shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 310-A, relative to a second bridge across the Nashua River in the city of Nashua and making an appropriation therefor. (Capital Budget)

HB 395, requiring the division of safety services, department of safety, to issue a copy of the state's safe boating publication. (Development, Recreation and Environment)

HB 746, relative to legalizing the Winchester town meeting. (Public Affairs)

HB 754-A, making an appropriation to acquire abandoned railroad rights of way. (Finance)

HB 811-FN-A, establishing a task force to study the issue of spousal impoverishment of victims of Alzheimer's disease and related disorders and making an appropriation therefor. (Public Institutions, Health and Human Services)

HB 826-FN-A, authorizing the hiring of a consultant to review the effectiveness of foundation aid, and making an appropriation therefor, and relative to the teacher shortage study committee. (Education)

HB 831-FN-A, relative to a one-time reimbursement for oil spill damage and making an appropriation therefor and relative to the administration of the oil pollution control fund. (Development, Recreation and Environment)

HB 843-FN-A, appropriating funds for the Northeast Rural Water Association for equipment, technical assistance and training to rural water systems. (Development, Recreation and Environment)

HB 873, changing the title of "safety inspectors" to "highway enforcement officers" in the department of safety and providing for independent inspectors for carnival and amusement rides. (Executive Departments)

HB 886, relative to the board of trustees of the university system of New Hampshire. (Education)

HB 905, relative to surrogate parents appointed for educationally handicapped children. (Public Institutions, Health and Human Services)

HB 919-FN, relative to the matching requirements for vocational rehabilitation programs. (Public Institutions, Health and Human Services)

HB 932-FN-A, establishing a New Hampshire film and television bureau and making an appropriation therefor. (Interstate Cooperation)

HB 953-FN-A, relative to a fire protection system for the vault in the state archives and making an appropriation therefor. (Capital Budget)

HB 985, relative to the penalty for littering from boats. (Development, Recreation and Environment)

HB 990-FN-A, relative to the planning and design of a new facility for the Concord district court and making an appropriation therefor. (Internal Affairs)

HB 996-A, relative to the state's purchase of the Hillsborough county courthouse and making an appropriation therefor, and relative to asbestos removal in the courthouse. (Capital Budget)

HB 1048-FN, relative to health care benefits for retired employees of political subdivisions. (Insurance)

HB 1066-FN-A, relative to group II of the New Hampshire retirement system and making an appropriation therefor. (Insurance)

HB 1072-FN-A, appropriating funds to the department of environmental services for a water supply study. (Development, Recreation and Environment)

HB 1074-FN, relative to prior service credit for the retirement system. (Insurance)

HB 1088-FN-A, establishing pilot child care provider recruitment and training programs, and making an appropriation therefor. (Public Institutions, Health and Human Services)

HB 1092-FN, amending the 10-year highway plan. (Capital Budget)

HB 1109-A, relative to the purchase of the Cheshire bridge in the town of Charlestown and making an appropriation therefor. (Capital Budget)

HB 1112-FN-A, relative to the Head Start program and making an appropriation therefor. (Public Institutions, Health and Human Services)

HB 1146-FN-A, relative to abandoned property and making an appropriation to the state treasurer for purchase of a computer. (Internal Affairs)

HB 1162-FN-A, relative to AIDS education, prevention and control and making an appropriation therefor and relative to testing for the AIDS virus for insurance purposes. (Public Institutions, Health and Human Services)

HB 1163-FN-A, relative to nursing home care costs paid by counties. (Public Institutions, Health and Human Services)

HB 1180-FN-A, increasing the rate for residents of enhanced family care facilities and making an appropriation therefor. (Public Institutions, Health and Human Services)

HB 1201, authorizing school districts to teach New Hampshire's cultural heritage and ethnic history in school. (Education)

HB 1202-FN, requiring additional reports to be filed with the insurance commissioner. (Insurance)

ENROLLED BILLS REPORT

SB 256, relative to voting in special school districts.

Recess

Tuesday, February 23, 1988

Out of Recess

HOUSE MESSAGE

INTRODUCTION OF HOUSE BILLS

Senator Chandler offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 734 through 1188-FN shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 734, relative to posting of bond by administrators of estates. (Public Affairs)

HB 740, establishing standards for marital mediators and relative to voluntary marital mediation in divorce proceedings. (Judiciary)

HB 743, relative to security deposits on rental property. (Banks)

HB 783, relative to grandparents' visitation rights. (Public Institutions, Health and Human Services)

HB 784, relative to disclosures of securities takeovers. (Insurance)

HB 790-FN, relative to the public investments study committee. (Banks)

HB 795, relative to motor vehicle liability policies. (Insurance)

HB 814-FN, relative to fines imposed by and the staff of the pharmacy board. (Executive Departments)

HB 834, relative to prima facie evidence. (Judiciary)

HB 852-FN, relative to New Hampshire hospital personnel. (Executive Departments)

HB 865-FN, enabling towns and village districts to hold special meetings for zoning ordinance amendments. (Public Affairs)

HB 870-FN, relative to surety bonds for county treasurers and other county officers, and relative to the administration of RSA 78-B by the commissioner of revenue administration. (Executive Departments)

HB 888, relative to the qualifications of the director of water supply and pollution control. (Internal Affairs)

HB 889-FN, requiring all new statutes to be written in gender-neutral form. (Executive Departments)

HB 894, relative to consideration of water companies as public utilities. (Capital Budget)

HB 912, relative to rules in manufactured housing parks and warranties for pre-site built and prefabricated housing. (Internal Affairs)

HB 935, relative to recording plats. (Public Affairs)

HB 942, relative to treatment by physical therapy. (Public Institutions, Health and Human Services)

HB 1020-FN, relative to occupational therapists and occupational therapy assistants. (Executive Departments)

HB 1022-FN, relative to investment of public funds. (Banks)

HB 1028-FN, relative to the water resources statutes. (Development, Recreation and Environment)

HB 1067-FN, relative to the penalty for an aggravated DWI offense. (Judiciary)

HB 1078-FN, relative to cosmetologists and pedicurists. (Executive Departments)

HB 1089-FN, relative to clarifying and changing the penalties under certain forestry laws and relative to deceptive forestry business practices. (Development, Recreation and Environment)

HB 1098-FN, establishing a committee to study surrogate motherhood. (Public Institutions, Health and Human Services)

HB 1099-FN, making New Hampshire retirement system maximum benefit limitations comply with the Tax Reform Act of 1986. (Insurance)

HB 1133-FN, relative to home rule and municipal charters. (Executive Departments)

HB 1137-FN, relative to reports required by and the setting of tax rates for municipalities, counties, and school districts. (Executive Departments)

HB 1151, relative to licensing pharmacists. (Executive Departments)

HB 1171, relative to boating restrictions on White Pond and Duncan Lake in the town of Ossipee and prohibiting ski craft on Dublin Lake in the town of Dublin. (Development, Recreation and Environment)

HB 1177-FN, relative to qualifying for the veterans' and elderly property tax exemptions and filing an inventory form and relative to naming a bridge for Korean and Vietnam era veterans. (Public Affairs)

HB 1182-FN, relative to rate-setting for children's services, and establishing a committee to study rate-setting for health and human services, children, youth and elderly, and education. (Public Institutions, Health and Human Services)

HB 1188-FN, establishing age limits for the operation of OHRVs. (Transportation)

ENROLLED BILL REPORTS

HB 331, relative to filing returns under the interest and dividends tax.

HB 452, relative to demerit points for younger drivers.

HB 546, relative to the times for opening and closing the polls in statewide elections.

HB 574, relative to registering and the numbering of boats operating on state waters.

HB 741, relative to horsepower of motors on Spectacle Pond in the towns of Enfield and Grafton.

HB 806, relative to the price of wine.

HB 968, authorizing imposition of administrative fines by the water well board.

HB 1038, relative to credit services organizations.

SB 238, relative to bail reform.

SB 239, relative to electronic privacy.

Recess

Thursday, February 25, 1988

Out of Recess

HOUSE MESSAGE

INTRODUCTION OF HOUSE BILLS

Senator Chandler offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 237 through 842 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 237, limiting the civil liability of volunteers working on behalf of nonprofit organizations; establishing a special insurance compensation fund and a process to compensate persons with claims against volunteers. (Judiciary)

HB 313-A, relative to the widening, realignment, and improvement of the Route 3-A and Pinecrest Road intersection in Litchfield. (Capital Budget)

HB 352-FN-A, relative to the return of revenue to cities and towns. (Ways and Means)

HB 594-FN, relative to county victim assistance programs and making an appropriation therefor. (Public Institutions, Health and Human Services)

HB 625-FN, relative to fees for boats and boat registration, and making certain appropriations. (Development, Recreation and Environment)

HB 674-FN, relative to accidental disability benefits for New Hampshire retirement system members. (Insurance)

HB 758-FN, establishing a committee to study the juvenile justice system and juvenile delinquency, and relative to the age of criminal responsibility. (Judiciary)

HB 773-FN-A, relative to legal holiday on June 21, 1988, celebrating New Hampshire's role in ratifying the United States Constitution and suspending the celebration of Fast Day for 1988. (Public Affairs)

HB 794-A, making capital appropriations and supplemental capital appropriations. (Capital Budget)

HB 799-FN-A, relative to certain state publications and making appropriations for their more efficient production. (Executive Departments)

HB 801-FN, relative to composition of the dental board. (Executive Departments)

HB 821, legalizing certain town meetings and hearings. (Public Affairs)

HB 824, relative to area school district agreements. (Education)

HB 833, relative to the defense and indemnification of housing finance board officials and employees. (Executive Departments)

HB 842, establishing a committee to study regulating development in unincorporated and unorganized places and placing a moratorium on sewage or waste disposal system construction in unincorporated and unorganized places. (Internal Affairs)

Recess

Out of Recess

HOUSE MESSAGE

INTRODUCTION OF HOUSE BILLS

Senator Chandler offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 862-FN through 1200 and HCR 13 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

First and Second Reading and Referral

HB 862-FN, relative to solid waste disposal and source reduction. (Development, Recreation and Environment)

HB 871, relative to damages for wrongful death. (Judiciary)

HB 876, relative to restricting water-skiing in certain coves on Squam Lake. (Development, Recreation and Environment)

HB 878-FN, establishing a committee to study the benefits of policemen and firemen. (Insurance)

HB 880, relative to certification of water quality laboratories. (Public Institutions, Health and Human Services)

HB 885, relative to establishing a boat safety fund; and requiring a boat safety course or administrative fine for offenses while boating. (Development, Recreation and Environment)

HB 899-FN-A, allocating funds to the office of state planning to purchase computer equipment and making an appropriation therefor. (Executive Departments)

HB 911, relative to service of termination notice on a manufactured housing park tenant. (Internal Affairs)

HB 917, making technical changes for the department of revenue administration. (Ways and Means)

HB 940, relative to child support enforcement and paternity. (Judiciary)

HB 943-FN, establishing a temporary program allowing the court to grant drivers' licenses conditional upon the use of ignition interlock devices after certain DWI license revocations and authorizing the house judiciary committee to continue its study of ignition interlock devices. (Judiciary)

HB 952, establishing a legislative committee to study boating laws and rules relative to boating. (Development, Recreation and Environment)

HB 959, relative to the future energy supply needs of New Hampshire. (Interstate Cooperation)

HB 962-FN-A, relative to the study and design of a ski lodge at Mount Sunapee and making an appropriation therefor. (Capital Budget)

HB 963-FN, relative to certain public utility contracts. (Interstate Cooperation)

HB 964, granting law enforcement officials and certain employees of the department of health and human services the right to enter, without the consent of parent or guardian, public places to interview children who may be abused or neglected. (Public Institutions, Health and Human Services)

HB 972, relative to annulments of drug convictions and permitting the director of motor vehicles to review revocation of licenses of habitual offenders for possible restoration under certain conditions. (Judiciary)

HB 978, legalizing certain town meetings and zoning board of adjustment proceedings. (Public Affairs)

HB 981-FN, relative to renting video cassettes to minors and requiring proof of age for admission of minors to movies. (Internal Affairs)

HB 1000-FN-A, relative to the Christa McAuliffe memorial and making an appropriation therefor. (Capital Budget)

HB 1001-FN, relative to civil suits against municipal officials. (Judiciary)

HB 1009-FN, relative to managing tax supported state debt. (Finance)

HB 1036-FN, relative to motor vehicle inspections. (Transportation)

HB 1042-FN, relative to road toll laws and the regional fuel tax agreement. (Transportation)

HB 1056-FN-A, authorizing the payment of bond expenses out of bond proceeds and authorizing the appropriation of funds for such expenses if bond proceeds are insufficient. (Finance)

HB 1080-FN, relative to nongame species and making a continuing appropriation therefor. (Development, Recreation and Environment)

HB 1091-FN, allowing the insurance commissioner to impose and collect fees for submissions of continuing education courses in the insurance field to reimburse the continuing education advisory council and making an appropriation therefor. (Insurance)

HB 1097-FN, relative to underground storage tanks. (Development, Recreation and Environment)

HB 1103-FN, relative to state-owned surplus real estate to be used to establish affordable housing for low and moderate income persons. (Internal Affairs)

HB 1104-FN-A, relative to sewage treatment funds and making an appropriation therefor. (Capital Budget)

HB 1106-FN, establishing a committee to develop a program to license certain construction in public waters. (Development, Recreation and Environment)

HB 1107-FN-A, establishing a committee to study legislative employees' and constitutional officers' retirement benefits and making an appropriation therefor. (Insurance)

HB 1115-FN-A, relative to emergency management expenditures. (Executive Departments)

HB 1119, relative to restrictions on thrill craft. (Development, Recreation and Environment)

HB 1121-FN-A, appropriating funds for construction of the North Swanzey sewer interceptor. (Capital Budget)

HB 1128, establishing child support guidelines, and establishing a committee to study child support issues. (Public Institutions, Health and Human Services)

HB 1129, making supplemental operating budget appropriations, amending the operating budget, and making certain other appropriations. (Finance)

HB 1142-FN-A, relative to the construction of certain water treatment projects and making an appropriation therefor. (Development, Recreation and Environment)

HB 1147-FN, prohibiting persons who have been convicted of child pornography, felonious physical assault on a minor, or any sexual assault, from engaging in activities relating to the care of children. (Public Institutions, Health and Human Services)

HB 1158-FN, relative to extension of the authority of the division of water supply and pollution control relative to safe drinking water. (Executive Departments)

HB 1159-FN, relative to the Southeast Regional Refuse Disposal District. (Development, Recreation and Environment)

HB 1185-FN-A, establishing a program of worker safety and health education within the department of labor. (Insurance)

HB 1186, relative to the establishment of inclusionary zoning and linkage and accessory dwelling unit standards and development restrictions. (Internal Affairs)

HB 1200, relative to apportionment of damages. (Insurance)

HCR 13, relative to adjustment of the shelter deduction permitted under the food stamp program. (Public Institutions, Health and Human Services)

Recess

Out of Recess

HOUSE MESSAGES

HOUSE CONCURS WITH COMMITTEE OF CONFERENCE REPORT

HB 571-FN, relative to the certification and financial management of life care facilities and making an appropriation therefor.

HOUSE CONCURS WITH SENATE AMENDMENT

HB 648-FN, relative to changing a statutory reference in the hazardous waste laws.

HB 41, providing that the condemnee, his heirs and assigns shall have first option to purchase any property condemned by eminent domain, if said property is abandoned for any reason by condemnor.

HB 499, relative to return of recovered property.

HB 502, delegating site plan review powers to special site review committees.

HB 705-FN, relative to itinerant vendors.

HB 815-FN, relative to the joint committee on elderly affairs.

HB 914, relative to interest due with a return or estimated taxes in the business profits tax and the interest and dividends tax, and relative to a definition of the United States Internal Revenue Code for business profits tax purposes.

Recess

Out of Recess.

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn we adjourn until March 10, 1988 at 1:00 p.m.

Adopted

LATE SESSION

Senator Dupont moved that the Senate adjourn until Thursday, March 10, 1988 at 1:00 p.m.

Adopted.

Adjournment.

Thursday, March 10, 1988

The Senate met at 1:00 p.m.

A quorum was present.

Senator McLane was excused for the day.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, help us in our deliberations as we descend from the clouds and excitement of Super Tuesday! May we have the cour-

age and stamina in the right way for the last Hurrah as we bring the last chapter of the 1988 Session to a successful conclusion.

Amen

Senator Nelson led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

COMMITTEE REPORTS

HB 922-FN, relative to providing flags for use in school classrooms. Ought to Pass. Senator Nelson for the Committee.

SENATOR NELSON: This bill simply allows state agencies, private groups or individual citizens to provide and have placed an American flag or a New Hampshire State flag, or both, in a public school classroom that does not already display the flag, or flags, subject to the approval of the local school board.

SENATOR WHITE: To follow up on what you just said, I take it this is permissive, and not mandatory so we don't have a problem with question two?

SENATOR NELSON: Senator White, in the first line of the bill, if you'll notice under roman numeral I, it does say that citizens may provide. So, it truly is enabling.

SENATOR WHITE: Thank you. Excellent.

Adopted. Ordered to Third Reading.

HB 947-FN, relative to school system pupil registration information. Ought to Pass with Amendment. Senator Bond for the Committee.

SENATOR BOND: HB 947 as amended by the committee provides that a school districts public information registers may be kept on a computer. It also provides that pupil registers shall be kept as a permanent record of the district and if the record is kept on a computer, the record shall be in the form of a paper printout.

AMENDMENT TO HB 947-FN

Amend RSA 189:27-a as inserted by section 1 of the bill by replacing it with the following:

189:27-a Computerization of Pupil Registers. School boards, or the governing persons or governing bodies of public academies or non-public schools may choose to maintain pupil registration and enrollment information through the use of a computer, instead of using a

register provided by the state board of education. The software program for any such computer application shall be capable of providing in printed form at least the information required by RSA 186:11, VI.

AMENDED ANALYSIS

This bill provides that a school district's pupil information registers may be kept on a computer.

It also provides that pupil registers shall be kept as a permanent record of the district, and if the record is kept on a computer, the record shall be in the form of a paper printout.

Amendment adopted. Ordered to Third Reading.

HB 1130-FN, relative to the cost to counties for performing autopsies. Interim Study. Senator Delahunt for the Committee.

SENATOR DELAHUNTY: The intent of HB 1130 is to cap the dollar amount for the counties to expend at \$300. The reason for this is, traditionally the county attorney has ordered autopsies, except in the case of homicides, because in those cases the attorney general is on the scene immediately. During the mid 80's, a couple of county attorneys were confronted with situations where their budgets would not support autopsies so they stopped ordering them. The A.G.'s office felt that it had to step in and reverse the county attorney's decision and order them. The present cost for autopsies are running approximately \$575 to \$600 each. These are mandated by the State without any funding provided. This figure includes; transportation and hospital costs and there are approximately 175 autopsies required every year by the State, in addition to the transportation and hospital cost, there are toxicology fees. Most autopsies are performed in Concord Hospital by the State Chief Medical Examiner. When a body is coming from a county outside of Merrimack County, it costs a lot more to transport and the hospital fee tends to be a lot higher. A new facility has been proposed but not yet authorized. We request that you commit this bill to interim study until the issue of a new facility and/or other alternatives are determined.

Adopted.

HB 954, relative to the boilers and pressure vessels law. Ought to Pass. Senator Freese for the Committee.

SENATOR FREESE: This bill amends the boiler and pressure vessels law to conform to the code of the American Society of Mechanical Engineers and the National Board of Inspection Code. The

legislation also provides that certain boilers may receive a certificate of inspection biennially. It was requested by the Department of Labor to clean up some ambiguous and unnecessary language and to bring the department up to the National standards, as it exists in most of the other states. Without these recommended standards, the state is at some risk, liability wise. The committee recommends passage.

SENATOR PODLES: Senator Freese, could you tell me which certain boilers are going to receive inspections biennially?

SENATOR FREESE: Both the high pressure and low pressure boilers are going to receive inspections. I think the low pressure boilers are going to be inspected less frequently, but the high pressure boilers will be inspected biannually.

SENATOR PODLES: Could you give me the reason why? Why one would be inspected biannual and the others be inspected annually?

SENATOR FREESE: One of the boilers is less dangerous than the other. If something goes wrong it causes an explosion. The other boiler is less harmful and doesn't need as much oversight and inspection. This conforms with the national code and right now, New Hampshire is on its own with regards to when they inspect them. Through experience and people that are really in the field and know what they are doing, and all of the states have adopted the federal guidelines on this.

Adopted. Ordered to Third Reading.

HB 881-FN, relative to weights and measures. Ought to Pass with Amendment. Senator Disnard for the Committee.

SENATOR DISNARD: HB 881 is a housekeeping bill and when I say that it is a housekeeping measure, I mean it. When I say that it is a simple bill, people sometimes look at me, but it really is a simple bill. As an example, there are two laws now regarding weights and measures such as the standards. One says, they will be reviewed, evaluated, whichever term or checked, calibrated, whichever term you want to use. The other bill says once every two years, so they're in conflict. So this will bring those two bills together so that there will be calibration once every two years. Also, with the Department of Agriculture, there is a building that holds these certain standards that are used as the masters, if I can refer to a standard as a master. Present law says they must be examined every ten years and this is

not necessary, according to testimony, because they do not leave the building. Therefore, there's not much chance of getting out of calibration, if I can use a simple term such as that. No one appeared in opposition.

AMENDMENT TO HB 881-FN

Amend the bill by deleting section 1 and renumbering the original sections 2 and 3 to read as 1 and 2, respectively.

AMENDED ANALYSIS

The bill, as amended, deletes the biennial inspection requirement for testing of city weights and measures standards by the commissioner of agriculture. Under RSA 438:17, the city sealer of weights and measures, in cities where such a sealer is appointed, must arrange for the inspection of weights and measures at least annually.

Amendment adopted. Ordered to Third Reading.

HB 776, relative to the examination of jurors. Ought to Pass with Amendment. Senator Chandler for the Committee.

SENATOR CHANDLER: The amendment is on page 13. Now, before anybody becomes a juror, they have about six or seven pages of a questionnaire where they're asked all kinds of questions; this, that and the other thing. The bill, itself, adds three more questions to the list that they ask the prospective juror. One of them we amended to say, the person would not be qualified if he's employed by either party in the case. That's all the amendment does. So this is reported ought to pass with amendment.

AMENDMENT TO HB 776

Amend the bill by replacing all after the enacting clause with the following:

1 Examination of Jurors. Amend RSA 500-A:12, I (e) and (f) to read as follows:

(e) Is employed by or employs any party in the case;
[e](f) Is prejudiced to any degree regarding the case; or
[f](g) Employs any of the counsel appearing in the case in any action then pending in the court.

2 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill, as amended, authorizes the court to require a juror to answer upon oath if he is employed by or employs any party in the case to be tried.

Amendment adopted. Ordered to Third Reading.

HB 1144-FN, relative to civil penalties for violations by public utilities. Ought to Pass with Amendment. Senator Podles for the Committee.

SENATOR PODLES: HB 1144-FN as amended, grants the public utilities commission discretion to fine a public utility, not to exceed \$25,000 for a certain violation, and also, it can fine a utilities agent up to \$10,000 per day for violations. This bill gives some teeth to the penalty provision and it is hoped that it will get noncomplying utilities to take things a little more seriously. They just don't want to go to a long drawn criminal procedure and so that the committee recommends ought to pass.

AMENDMENT TO HB 1144-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Civil Penalty Against Utility. Amend RSA 365:41 to read as follows:

365:41 Penalty[,] Against [Party] Utility. Any public utility which shall violate any provisions of this title, or fails, omits or neglects to obey, observe or comply with any order, direction or requirement of the commission, shall be guilty of a felony and, shall be subject to a civil penalty, as determined by the commission, not to exceed \$25,000. No portion of any fine, nor any costs associated with an administrative or court proceeding which results in a fine pursuant to this section, shall be considered by the commission in fixing any temporary, permanent, or emergency rates or charges of such utility.

2 Civil Penalty Against Agent. Amend RSA 365:42 to read as follows:

365:42 [—] Penalty Against Agent. Every officer and agent of any such public utility who shall wilfully violate, or who procures, aids, or abets any violation of this title, or who wilfully fails to obey, observe, and comply with any order of the commission, or procures, aids or abets any such public utility in its failure to obey, observe,

and comply with any such order or provision, shall be guilty of a misdemeanor and, shall be subject to a civil penalty, as determined by the commission, not to exceed \$10,000 for each violation, or for each day of a continuing violation.

3 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill, as amended, grants the public utilities commission discretion to fine a public utility an amount not to exceed \$25,000 for certain violations. The bill grants the commission discretion to fine a public utility's agent up to \$10,000 per day for certain violations.

Amendment adopted. Ordered to Third Reading.

HB 1060, establishing a limitations period for claims of procedural defects in the enactment of municipal legislation. Ought to Pass. Senator Chandler for the Committee.

SENATOR CHANDLER: This is a bill that limits the length of time that anybody can challenge some local ordinance that was passed maybe several years previously and might be challenged on some technicality that the newspaper ad didn't appear when it was supposed to or the newspaper ad appeared too late or some notice wasn't posted, so forth and so on. It would be very difficult for the selectmen if they are challenged on some local ordinance to go back a great many years and find out if actually there was some ad in some newspaper or it had been posted in the post office six years before. So, this limits it to a five year period, but after five years go by, and there's been no challenge to a local ordinance, it will assume to have been done in a correct manner.

Adopted. Ordered to Third Reading.

HB 1123-FN, relative to senior justices and to the sentence review division. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: Basically, this is a housekeeping bill and it just clarifies that retired senior court justices can serve, at no cost, on these committees. We felt that it was a good idea.

The amendment, you'll find is on page 14, we thought it was such a good idea that we moved up the effective date to upon passage.

AMENDMENT TO HB 1123-FN

Amend the bill by replacing section 3 with the following:

3 Effective Date. This act shall take effect upon its passage.

Amendment adopted. Ordered to Third Reading.

HB 874, permitting every county attorney to appoint an assistant county attorney. Ought to Pass. Senator Krasker for the Committee.

Senator Krasker moved to pass over HB 874.

Adopted.

HB 897, relative to annual reports of county officers. Ought to Pass with Amendment. Senator Heath for the Committee.

SENATOR HEATH: This bill eliminates county positions from the list that county officers must make annual reports, because there aren't county positions anymore. The second part of this is changing the publication date, we didn't find any need for it so we added the amendment, on page 14 of your report today, strikes that clause in the original bill that changes it and we'd ask that you go along with it.

AMENDMENT TO HB 897

Amend the bill by replacing section 1 with the following:

1 County Reports. Amend RSA 30:1 to read as follows:

30:1 Reports; Publication; Penalty. The sheriff, the jailer, [the physician,] the county attorney, the treasurer, the county commissioners and the superintendents of the county [farm] farms [of each county] shall make up their several reports to the close of the county's fiscal year annually, and the same shall be printed together in pamphlet form before or during the second month following the close of the county's fiscal year. Whoever violates any provision of this section shall be guilty of a violation, and the fine shall be paid to the treasurer of the county of which said person is an official.

AMENDED ANALYSIS

This bill eliminates the county physician from the list of county officers who must make annual reports. The bill also adds fees to what must be included by sheriffs and deputy sheriffs in their annual reports of income.

Amendment adopted. Ordered to Third Reading.

HB 989, relative to towed farm implements. Ought to Pass. Senator Preston for the Committee.

SENATOR PRESTON: This bill is in relation to towed farm implements. Under the current law, their requirements for chains is coupling devices. This simply exempts farm implements from having to use such safety chains but requires the appropriate safety pins and clamps for tractors and trailers upon farm implements.

Adopted. Ordered to Third Reading.

HB 585-FN, establishing a committee to study motor vehicle emissions controls. Ought to Pass. Senator Dupont for the Committee.

Senator Dupont moved to lay HB 585-FN on the table.

Adopted.

HB 768-FN, relative to the frequency of regional highway conferences. Ought to Pass. Senator Johnson for the Committee.

SENATOR JOHNSON: This is a bill that is sponsored by Representative Hoar and Senator Preston. It simply changes the frequency of conducting regional public hearings and highway conferences from biannually, that is twice every year, to biennially, once every two years. These regional conferences have proved beneficial. It's given the public an opportunity to go before the state agencies and make their concerns known. But, I think there was probably a typographical error in the first place, and basically, this bill corrects that.

Adopted. Ordered to Third Reading.

HB 214-FN, relative to penalties for violations of motor vehicle laws by minors. Inexpedient to Legislate. Senator Pressly for the Committee.

SENATOR PRESSLY: There were two hearings held in the Senate for HB 214. The committee was very sensitive to one of the problems that was presented and, that is that we do not have adequate housing. However, we were very concerned, we felt that this bill did, very definitely, diminish the effectiveness of the DWI laws and we felt that it was not the approach to solving a housing problem to diminish the effectiveness of our other laws. So, the committee unanimously recommended inexpedient to legislate.

Adopted.

HB 803, relative to snowmobile operation and changing compliance dates for ATV manufacturers. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR: HB 803 was amended, eliminating section one of this bill, which would have granted permission to off the highway recreation vehicles to be used by verbal permits. Section two addresses the compliance statutes of off the highway recreation vehicles to be extended one year from 1989 to 1990.

AMENDMENT TO HB 803

Amend the title of the bill by replacing it with the following:

AN ACT

changing the compliance dates for ATV manufacturers.

Amend the bill by deleting section 1 and renumbering sections 2 and 3 to read as 1 and 2, respectively

AMENDED ANALYSIS

This bill, as amended, extends the date from 1989 to 1990, for ATV manufacturers to meet certain requirements, without which no ATV shall be operated or sold in the state.

Amendment adopted. Ordered to Third Reading.

HB 798-FN, relative to special function liquor licenses for clubs and special liquor licenses and permits for nonprofit organizations. Ought to Pass with Amendment. Senator Stephen for the Committee.

Senator Stephen moved to recommit.

SENATOR STEPHEN: HB 798-FN and the amendment, we are going to ask to recommit it as a courtesy to Senator Hough.

SENATOR ST. JEAN: Senator, for what purpose do you want to recommit it?

SENATOR STEPHEN: I believe, Senator St. Jean, that Senator Hough has an amendment concerning the district that he represents, that he wants to put in dealing with liquor. This amendment that we had, was to allow mini bars in hotels as they do throughout the country.

SENATOR ST. JEAN: Is there some type of liquor problem that we don't know about in this State?

SENATOR STEPHEN: Not that I'm aware of, Senator St. Jean. Other States allow these mini bars, are you familiar with mini bars first of all?

SENATOR HOUNSELL: Senator St. Jean, isn't it the case that sometime it's a courtesy to a Senator to recommit or table an item before us?

SENATOR ST. JEAN: Yes.

Adopted.

Senator Blaisdell wished to be recorded as opposed to the recommit.

HB 983, relative to early betting on thoroughbred racing. Inexpedient to Legislate. Senator Roberge for the Committee.

SENATOR ROBERGE: This bill would create a separate betting pool to take place the first five minutes of the twenty minute time that is normally given to bet on a particular race. It would be principally for small bets. The odds, during the first five minutes of betting, are assumed to be higher and this would give the small bettor more of a chance to get high odds. Then, of course, the large bets would come later on as the odds go down. It was felt that it would create quite a bit more work for Rockingham, which would be the only track that would be affected. Also, this procedure is not in effect any place in the United States and so we felt it wasn't needed.

Adopted.

HB 874, permitting every county attorney to appoint an assistant county attorney. Ought to Pass. Senator Krasker for the Committee.

SENATOR KRASKER: This bill would permit the county attorney, in each county, to appoint an assistant county attorney with the consent of the Superior Court and the county commissioners. Presently, Carroll, Hillsborough and Rockingham counties are allowed to appoint the assistant county attorneys and this would extend this prerogative to all the other counties. The bill was requested by the New Hampshire Association of Counties. They found that over the years with the increased volume of cases going before the county attorney, many of them had hired assistants, but they were not legally autho-

rized by statute to do it. What this is doing is empowering all counties to do what now three counties can do. Hillsborough County will still be covered under its own statute, but the bill does repeal these specific statutes of Carroll and Rockingham County, so that, they are covered under this blanket authorization if they wish to hire a county attorney. The final determinant of the hiring or not hiring is still the county delegation, that they have to approve a budget and while the county attorney might go to the commissioners and ask for the hiring of an assistant, it would still be as is always the case, the county delegation that would decide whether that person should be included in the budget.

SENATOR HOUNSELL: I rise in opposition to HB 874 as it appears before us. I don't necessarily object to counties having the discretion to appoint an assistant county attorney, but I have strong opposition with this legislation as it provides that, they have to have the consent of the Superior Court and that's objectionable to me. I think the court should be dealing in justice and not in appointments of county officials. I also object on another point and that excludes the county convention from the setting of the salary, as the bill appears. It gives the county commissioners the authority to set the salary and I just think that's wrong. So, for those two points, I object to the bill.

SENATOR BOND: Senator Krasker, does this bill give the power to set the salary to any one other than the delegation?

SENATOR KRASKER: No. I'm very familiar with what happens in Rockingham County, because I served as a member of the delegation for 12 years. In every case, it's the delegation that decides what goes in to the budget and there have been many occasions where the county attorney asks for an assistant attorney, which we removed. The section that Senator Hounsell referred to about Superior Court is already in the existing statute.

SENATOR BOND: So, the present statute provides for approval by the Superior Court for county attorneys?

SENATOR KRASKER: In the counties of Rockingham, Carroll and Hillsborough. What they did was take the same statute and make it applicable to all the other counties.

Senator Dupont moved to lay HB 874 on the table.

Adopted.

TAKEN FROM THE TABLE

Senator St. Jean moved to take HB 58 off the table.

Adopted.

HB 58, relative to the disqualification of local land use board members. Ought to Pass. Senator Charbonneau for the Committee.

SENATOR CHARBONNEAU: This bill was reported out ought to pass without amendment. It adds planning boards in historic district commissions that can have members disqualified. This new bill is very specific, it gives the method of which a board may decide to disqualify a member of the planning board.

Senator Hounsell moved to pass over HB 58.

SENATOR HOUNSELL: I have an amendment that I think has been passed out and I have just been reading this language and I, at this time sir, have a little confusion as to what it does with the language that's in bill as it stands.

Adopted.

Senator Preston moved to vacate HB 1081-FN from Public Affairs to Transportation.

Adopted.

TAKEN FROM THE TABLE

Senator Dupont moved to take HB 904-FN off the table.

Adopted.

HB 904-FN, relative to the Vermont State income tax. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: Just for clarification, this is the Vermont State income tax bill that authorizes the attorney general to file a suit in behalf of the New Hampshire taxpayers that work in Vermont and pay the Vermont income tax. I was going to bring in an amendment to this bill, relative to the State of Maine because the attorney general's office hadn't initiated that suit, but they have at this time prepared the suit and within the next week they should be filing it so there is no amendment to this bill. This is the original bill as passed by the committee.

Adopted. Ordered to Third Reading.

HB 58, relative to the disqualification of local land use board members. Ought to Pass. Senator Charbonneau for the Committee.

SENATOR HOUNSELL: In checking with the legal council and Senator Charbonneau, I find that this amendment is not the amendment that I desire. I don't put the blame on legislative services or anything, it's just not the one that I wanted. So, having said that I will withdraw this amendment at this time.

SENATOR DISNARD: HB 58 indicates an amended analysis, and you said that it was not amended. I'm confused.

SENATOR CHARBONNEAU: HB 58 was a re-referred bill, ok. What was happening with the amendment is that it cut out one portion of it, so that's why.

Adopted. Ordered to Third Reading.

ENROLLED BILLS REPORT

HB 403, clarifying penalty provisions for violations of local codes and regulations, and relative to district court jurisdiction over such violations.

HB 502, delegating site plan review powers to special site review committees.

HB 648, relative to changing a statutory reference in the hazardous waste laws.

HB 767, relative to the contracts made by nonprofit corporations.

HB 769, relative to rulemaking authority for the division of elderly and adult services.

HB 815, relative to the joint committee on elderly affairs.

HB 817, relative to coordinating programs for the elderly.

HB 914, relative to interest due with a return or estimated taxes in the business profits tax and the interest and dividends tax, and relative to a definition of the United States Internal Revenue Code for business profits tax purposes.

SB 246, relative to the sale of liquor in convention centers and first class ballrooms.

RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Tuesday, March 15, 1988 at 1:00 p.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 922-FN, relative to providing flags for use in school classrooms.

HB 947-FN, relative to school system pupil registration information.

HB 954, relative to the boilers and pressure vessels law.

HB 881-FN, relative to weights and measures.

HB 776, relative to the examination of jurors.

HB 1144-FN, relative to civil penalties for violations by public utilities.

HB 1060, an act establishing a limitations period for claims of procedural defects in the enactment of municipal legislation.

HB 1123-FN, relative to senior justices and to the sentence review division.

HB 897, relative to annual reports of county officers.

HB 989, relative to towed farm implements.

HB 768-FN, relative to the frequency of regional highway conferences.

HB 803, changing the compliance dates for ATV manufacturers.

HB 904-FN, relative to the Vermont State income tax.

HB 58, relative to the disqualification of local land use board members.

Senator Dupont moved to adjourn.

Adopted.

Adjournment.

Tuesday, March 15, 1988

The Senate met at 1:00 p.m.

A quorum was present.

Senator Torr in the Chair.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, help us to be ourselves and use the talents with which we have been endowed from above! One of the lessons which we have learned from the Presidential Primaries is as "We do unto others - so shall they be done unto us"! "Nuff said".

Amen

Senator Delahunty led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

Senator Bartlett moved to recall from the Governor SB 238, relative to bail reform, to change the effective date.

Adopted.

COMMITTEE REPORTS

HB 1007-FN, relative to the date when municipalities must make payments to counties. Ought to Pass. Senator Stephen for the Committee.

SENATOR STEPHEN: The committee met on this and was unanimous. What this bill does, it merely is trying to make legal what, in essence, has been practiced for quite a while. There would be no penalties, as there aren't any penalties for the county as well as the towns. We recommend ought to pass.

Adopted. Ordered to Third Reading.

HB 870-FN, relative to surety bonds for county treasurers and other county offices, and relative to the administration of RSA 78-B by the commissioner of revenue administration. Ought to Pass. Senator Stephen for the Committee.

SENATOR STEPHEN: We met in Executive Departments and it was recommended favorably. What it is, surety bonds for the county will be the same as towns. In other words, if the county treasurer decides to run away and takes all the money for the week that he has collected in tax payments with him, the bonding company will pay the county the amount of the money that he took. That is the same for the towns.

Adopted. Ordered to Third Reading.

HB 799-FN-A, relative to certain state publications and making appropriations for their more efficient production. Ought to Pass. Senator Disnard for the Committee.

SENATOR DISNARD: This bill deals with the timeliness of the publications of session laws, advanced sheets. Many times it takes up to twenty-four months for this to be accomplished because, most of the work is done on index cards by hand and many times there has to be ten sets of index cards. What this bill asks for is some hand-me-down computer equipment from the office of legislative services that will be used especially in the State Law Library. We were very pleased to have three State employees; Lynn Dennis, Office of Legislative Services, Shirley Adamovich, Commissioner of the Department of Libraries and Connie Rinden of the State Law Library, speak. When they were questioned, "could they get by with hand-me-downs?", they thought they could. They are very appreciative of what's being done. So I request the Senate to approve this bill today.

Adopted. Referred to Finance (Rule #24).

HB 863-FN, relative to an intrastate computer system within the division of state police to record outstanding arrest warrants for misdemeanors establishing a police communications specialists position within the division of state police and making an appropriation therefor. Ought to Pass. Senator Pressly for the Committee.

Senator Pressly moved to recommit HB 863-FN.

Adopted.

HB 899-FN-A, allocating funds to the office of state planning to purchase computer equipment and making an appropriation therefor. Ought to Pass with Amendment. Senator Disnard for the Committee.

SENATOR DISNARD: Please note that this bill is requesting \$270,000; not Jimmy \$500,000, for the Office of State Planning to

purchase computer equipment and making an appropriation therefor. What it asks for is \$30,000 for computers in nine regional areas, planning centers, to be hooked up to the state office to have better communications and so that when they need information it will be at their fingertips. It was unanimously requested. No one spoke in opposition, everyone at the hearing appeared to like the idea. The State would make sure that the equipment purchased would be compatible and it'd all be the same make. All will benefit in this room.

SENATOR WHITE: I couldn't resist his last comment that we're all going to benefit. Is this going to go back to the regional planning commission so that they will all be hitched in?

SENATOR DISNARD: Each of the nine regional planning commissions that do not have one, will each have one.

SENATOR WHITE: I think that's terrific.

AMENDMENT TO HB 899-FN-A

Amend RSA 4-C:8, III as inserted by section 1 of the bill by replacing it with the following:

III. Provide computer interface capability among and between each regional planning commission, the office of state planning, and state data collection and storage sources. The computer interface capability shall be used by regional planning commissions to respond to municipal requests for assistance in the preparation and amending of master plans and in the evaluation of municipal infrastructure needs. The computer interface capability shall also be used by regional planning commissions to develop and update regional master plans, as provided in RSA 36:47. The computer equipment used for the purposes of this paragraph shall be compatible and able to interface with the office of state planning's geographic information system, as well as with other similar state computerized data collection and storage sources.

Amendment adopted. Referred to Finance (Rule #24)

HB 252-FN-A, relative to the rate of the business profits tax. Ought to Pass. Senator Blaisdell for the Committee.

SENATOR BLAISDELL: HB 252 passed unanimously in this Senate. It was sent to Senate Finance, we'll tell this Senate today that we agree with what we passed. It's the right thing to do and we hope you'll support the committee.

Adopted. Ordered to Third Reading.

HB 627-FN, to provide a loss carry forward under the business profits tax and relative to partnership and proprietorship deductions for compensation. Ought to Pass. Senator Blaisdell for the Committee.

SENATOR BLAISDELL: This bill was passed unanimously in the Senate. I think it's one of the most important pieces of legislation that will come before you this year. I think it's going to be vital to the economy of the State of New Hampshire in the next ten years. Senate Finance looked at it, said it was the right thing to do and we ask you to support it.

Adopted. Ordered to Third Reading.

HB 858-FN, relative to fetal alcohol syndrome. Ought to Pass. Senator Hough for the Committee.

SENATOR HOUGH: The committee recommends passage of HB 858-FN. This bill came to us, we looked it over, we feel that it has a great deal of merit, the price tag is \$4,750. We feel that this is a critically important piece of legislation and if it were to save one life it would be cost effective. We recommend its passage.

SENATOR WHITE: I would assume this is the bill that was amended by the House, but not the bill as amended by the Senate. Because we took out the affidavit and we just want to make sure you didn't have the affidavit in here?

SENATOR HOUGH: Senator White, I would tell you this, the Senate Finance Committee acted on the bill as it was received by us.

SENATOR WHITE: So, the affidavit is not there? Thank you.

Adopted. Ordered to Third Reading.

HB 754-A, making an appropriation to acquire abandoned railroad rights of way. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: HB 754 originally came into the Senate providing for three million dollars in bonding to continue the State program that deals with the state acquisition of abandoned railroad lines. As we all know, the rail system in this State is part of our

transportation network, not just the highway system. In Senate Finance, we added two very important amendments to it. The first amendment provides for the State to transfer its interest in property in downtown Keene that is critical to the development of Keene. This costs the State no money whatsoever, but existing statute requires that the State of New Hampshire have right of first refusal on existing right-of-ways. The City of Keene has been working for a number of years with the B&M Railroad to try and put these parcels, which are surplus the railroad needs, back on the tax roles in Keene. This amendment merely allows them to continue their negotiations without having the problems in dealing with the State as part of those negotiations.

The second portion of the bill, the second amendment that we added in Senate Finance, provides \$850,000 in bonding capability to finish work that the State started a couple of years ago, in rehabilitating the Conway branch. Since that work was done, the City of Rochester, as one interested party, has been negotiating with North Coast to provide service to a section of Rochester that is going to undergo tremendous industrial development during the next few years. This particular railroad line is not only of interest to Rochester, but it is a very, very busy and major line serving the areas north of Rochester. This company, with the help of the State, has upgraded a significant portion of that line and the \$850,000 is an additional need to complete the last ten miles of that line. The Senate Finance thought, because of the fine job that was done on the previous portion of this line and the need for this line, that we allow this amendment to go on to this bill and we urge the Senate to concur with Senate Finance.

SENATOR JOHNSON: Senator Dupont, I'm looking at page 12, the amendment, Roman two there, and I just want to make sure that the provisions of 350:5 means that the operator of the railroad will make their payment in cash rather than gravel.

SENATOR DUPONT: Senator, the final contract in the determination of what's going to happen to that piece of line will come before Governor and Council for all those details to be worked out, as they were in the last section that was done.

SENATOR JOHNSON: Senator Dupont, but you are assuring me that they will pay their share in cash?

SENATOR DUPONT: Senator, I can't give you that assurance right at this minute, no. I know we had this debate when we did the last one and I can't answer you that specifically. All I can tell you is that

the provisions that we laid out last time for this work to be done are to be used under this specific provision.

SENATOR NELSON: Senator Dupont, thank you for that explanation, but I would like to ask you another question and that is; how many miles of railroad are we talking about?

SENATOR DUPONT: This takes into consideration approximately 10 miles of railroad.

SENATOR NELSON: I didn't quite hear you at the beginning of your testimony, what's the status of this now? Is it up and running?

SENATOR DUPONT: It is up and running Senator, but as the case with most rail lines in the State, it went through a number of years without any improvements or maintenance done on it and there are sections of it that are in bad need of repair. Basically, this is to continue the project which ultimately will end up in Portsmouth at some future time, as we continue on down, because, this is a very important rail line.

SENATOR NELSON: Do you anticipate more money going to be needed for this? Is this just the beginning, sort to speak, a good beginning?

SENATOR DUPONT: No, I would say this is the second part of perhaps a three part project and it may not be the last line in the State that goes through this process because, as we look at the rail system in New Hampshire and what's happening to Gilford Industries, there are other pieces of rail that the State is now looking at to apply at and we may, perhaps, be rehabilitating other portions of lines in the State. I think what's important here is, in particularly in the southern portion of the State, this line in particular and others in Nashua and Portsmouth, that at some point in time, because of what's happening in Boston and around Logan Airport, that it's not too hard to envision that perhaps maybe some of these lines might be used for commuter traffic at some point in time, too.

SENATOR NELSON: Does that mean that we won't need to be building highways because we'll have such a good railroad system over there? We're going to save money; it's cost effective in the long run?

SENATOR DUPONT: It means we may not need a second bridge in Nashua, yes.

SENATOR JOHNSON: I rise in support of HB 754-A. I have a little bit of doubt about the amendment on page 12 there, to make sure that the operator does indeed pay there. But, I think it's important that we recognize that our State railroad rights-of-way are a valuable asset and we need to do what we can to keep the ones that are running, running, and when those are abandoned, to have the State resources to acquire them as a valuable State asset to be used in the future.

AMENDMENT TO HB 754-A

Amend the title of the bill by replacing it with the following:

AN ACT

making an appropriation to acquire abandoned railroad rights-of-way
and to rebuild, modernize and maintain the Rochester-Ossipee
branch line, and relative to transfer of state
railroad property interests to
the city of Keene.

Amend the bill by replacing all after the enacting clause with the following:

1 Appropriation.

I. The sum of \$3,000,000 is hereby appropriated to the commissioner of the department of transportation for the purchase of rail properties as defined by RSA 228:54, VIII including, but not limited to, abandoned railroad rights of way under RSA 228:60-a. This appropriation shall be nonlapsing.

II. The sum of \$850,000 is hereby appropriated to the commissioner of the department of transportation for the rebuilding, modernization and maintenance of the Rochester-Ossipee branch line. This appropriation shall be subject to the provisions of 1985, 350:5 as amended by 1986, 217.

2 Bonds Authorized. To provide funds for the appropriation made in section 1 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$3,850,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest of the bonds and notes shall be made from the general funds of the state.

3 Transfer of State Railroad Property Interests to City of Keene. Notwithstanding RSA 228:67 and RSA 4:40, the commissioner shall transfer to the city of Keene any property interest the state has in

the abandoned portions of the Cheshire and Ashuelot railroad branches located between Eastern Avenue on the east, the route 9, 10, and 12 bypass on the west, and Davis Street on the south, including all railroad property contiguous to those abandoned lines within the above described boundaries, in the city of Keene.

4 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill, as amended, appropriates \$3,000,000 to the commissioner of transportation to purchase rail properties including, but not limited to, abandoned rights-of-way, and appropriates \$850,000 to the commissioner of transportation for rebuilding, modernizing and maintaining the Rochester-Ossipee branch. The bill also requires the commissioner to transfer certain state railroad property interests to the city of Keene.

Amendment adopted. Ordered to Third Reading.

HB 867-FN, relative to bonding authority for the Conway village fire district. Ought to Pass. Senator Hough for the Committee.

SENATOR HOUGH: The committee acted favorably upon this piece of legislation and recommends that you vote accordingly. This corrects the technical problems that surfaced in the last session and our staff have indicated that the resource will allow this project in the village of Conway to go forward correctly. We recommend that you adopt this.

Adopted. Ordered to Third Reading.

Recess

Out of Recess

Senator Bartlett in the Chair.

HB 12, recodifying the workers' compensation law. Ought to Pass with Amendment. Senator Roberge for the Committee.

SENATOR ROBERGE: This bill is the recodification act. It was worked on for two years, particularly last summer, and it just rearranges different parts of the law and changes some wording. It does nothing of substance to change the law.

AMENDMENT TO HB 12

Amend RSA 281-A:7, V as inserted by section 2 of the bill by replacing it with the following:

V. Any agency or political subdivision of the state, before awarding any contract involving labor to a person who is an employer subject to this chapter, shall require that person to supply satisfactory proof that he or she has secured payment of compensation in accordance with the provisions of RSA 281-A:5 in connection with activities which the person proposes to undertake pursuant to the contract.

Amend the introductory paragraph of RSA 281-A:13, II(a) as inserted by section 2 of the bill by replacing it with the following:

II(a). The administrator of an employee's estate may, in addition to damages or benefits obtained under this section payable to the employee's dependents, obtain damages or benefits from or proceed at law or otherwise against another person to recover damages or benefits if:

Amend RSA 281-A:15, II(c) and (d) as inserted by section 2 of the bill by replacing them with the following:

(c) Any member of the general court injured in the performance of the duties as such a member.

Amend RSA 281-A:22 as inserted by section 2 of the bill by replacing it with the following:

281-A:22 Waiting Period. An employer subject to this chapter, or the employer's insurance carrier, shall pay workers' compensation to an employee sustaining a personal injury during a period of total or partial disability, but not for the first 3 days of disability unless the disability continues for 7 days or longer.

Amend RSA 281-A:23, I as inserted by section 2 of the bill by replacing it with the following:

I. An employer subject to this chapter, or the employer's insurance carrier, shall furnish or cause to be furnished to an injured employee reasonable medical, surgical, and hospital services, remedial care, nursing, medicines, and mechanical and surgical aids for such period as the nature of the injury may require. The injured employee shall have the right to select his or her own physician.

Amend RSA 281-A:23, III as inserted by section 2 of the bill by replacing it with the following:

III. If any of the foregoing objects are in existence at the time of the injury and are damaged or destroyed as a result of an injury, the employer, or the employer's insurance carrier, shall pay the cost of repair or replacement.

Amend RSA 281-A:30, III as inserted by section 2 of the bill by replacing it with the following:

III. Each carrier and self-insurer shall, under rules adopted by the commissioner, make payments to the fund in an amount equal to that proportion of 175 percent of the total disbursements made from the fund during the preceding calendar year less the amount of the net assets in the fund as of December 31 of the preceding calendar year which the total compensation paid by such carriers or self-insurers bore to the total compensation paid by all employers' carriers and self-insurers during the fiscal year which ended within the preceding calendar year. An employer who has ceased to be a self-insurer shall continue to be liable for any assessments into the fund on account of any compensation the employer paid during such fiscal year.

Amend RSA 281-A:42, II(b) as inserted by section 2 of the bill by replacing it with the following:

(b) If and to the extent that an employer, except a self-insurer, has failed to comply with the requirements of RSA 281-A:53.

Amendment adopted. Ordered to Third Reading.

HB 732-FN, relative to workers' compensation special fund. Ought to Pass. Senator Bond for the Committee.

SENATOR BOND: This bill changes the formula for payment into the special fund, workers' compensation special fund, from a proportion based on what has been paid during the preceding 12 months to the same proportion based on what is owed during the same time period. This bill deals with a cash flow problem for the workers' compensation insurance fund and the department requested it. We ask your support.

Adopted. Ordered to Third Reading.

HB 789-FN, relative to the assessment of civil penalties under the workers' compensation law. Ought to Pass. Senator Freese for the Committee.

SENATOR FREESE: This bill was requested by the Department of Labor. It allows employers, self-insurers and insurance carriers, subject to workers' compensation laws, to show sufficient cause to the labor commissioner to avoid civil penalties for violations of certain provisions of the law. It also eliminates the liability of employers insurance carrier, insurance for purposes of civil liability, assessed for nonpayment of weekly compensation after a decision of the labor commission. These fines, that we're speaking of here, were raised in 1983 and they were raised from a nominal amount to \$500 and in addition, the employer is assessed a civil penalty of \$100 a day, per employee. That's for each day of noncompliance. Before 1983, as I said the fines were rather small, and they raised them so as to get some teeth in the law for those few people who needed some discipline. It came out at the hearing that under the same circumstances that the fines were so excessive, under a few circumstances, they were so excessive for certain violations that they were to put a small firm out of business, a firm of say 2, 5 or 10 people if they just happened to lose the paper work or overlook the date of return, and when they were reminded by the department, they immediately responded. The commissioner has been using his discretion for some time on this law and, of course, he's out breaking the law when he does that because, the law states that the fine shall be levied. So, the committee urges passage of the bill so that he can use discretion.

Adopted. Ordered to Third Reading.

HB 1146-FN-A, relative to abandoned property and making an appropriation to the state treasurer for purchase of a computer. Ought to Pass. Senator Podles for the Committee.

SENATOR PODLES: HB 1146-FN-A covers disposal of unclaimed property by repair businesses of \$500 or less. It allows police departments to dispose of unclaimed property in accordance with procedures established by the attorney general. It also calls for a nonlapsing appropriation of \$75,000 for the biennium, ending June 30, 1989 to the State Treasury for the purchase of a mini computer and a software system from Management Purposes. The current system that they have now simply makes lists, but it does not allow them to move data in any way or to track stocks and stock dividends, as they come in. They have gone from something like \$100,000 in the past, turned over to the treasury to almost two million dollars, this year. So, the treasury department is allowed to keep 15% of that money by law for expenses so, with two million dollars collected, 15% of that, \$300,000. There certainly is enough money for software and hardware and the committee recommends ought to pass.

Adopted. Referred to Finance (Rule #24).

HB 966, relative to cellular radio telecommunications services. Ought to Pass with Amendment. Senator St. Jean for the Committee.

Senator St. Jean moved to pass over HB 966.

Adopted.

HB 381-FN, relative to growth limitation. Inexpedient to Legislate. Senator Dupont for the Committee.

SENATOR DUPONT: HB 381 was a bill that came into Internal Affairs and it was a classic case of, we felt that the parties that were involved in this bill ought to be able to walk out of the room and sit down and resolve their differences. We have a situation where some of the individuals involved feel that there's no middle ground and for that reason we bring HB 381 in as inexpedient to legislate. As much as many of us on the committee felt that there was some strong basis for this bill in an area where things need to be clarified, the inability of the parties involved to work out a compromise disappoints us at this point in time, but without their cooperation we don't feel we can go any further on this bill.

Adopted.

HB 847-FN-A, relative to indigent defense and making an appropriation therefor. Ought to Pass. Senator White for the Committee.

SENATOR WHITE: This is another case where there wasn't enough appropriation because it's money that's being transferred from the 89 into 88. There's more money that'll be in the supplemental budget to cover this shortfall that's going from 89. Representative Sytek has an amendment, but it wasn't ready at this time and she'll bring it before the Senate Finance. We felt it was important to get it down to Senate Finance because they are running out of money so we're passing it, at this time, as is, so that there'll be some money to support the program.

Adopted. Referred to Finance (Rule #24).

HB 907-FN, relative to district court jurisdiction in planning and zoning matters. Inexpedient to Legislate. Senator Podles for the Committee.

SENATOR PODLES: HB 907 is redundant, it's a repeat of HB 403 passed last year. It hasn't been signed into law yet, but it gives the towns the flexibility that they need and they want and it gives them the power to enforce their laws. HB 907 repeats the same language and it will create inconsistencies. The committee recommends inexpedient to legislate.

Adopted.

HB 936, relative to discoverability of risk in product liability actions. Ought to Pass. Senator Roberge for the Committee.

SENATOR ROBERGE: This bill establishes an affirmative defense in product liability cases. Based on discoverability of risk as measured by the state of the art at the time of distribution in sale of the product.

SENATOR KRASKER: Senator Roberge, will you explain to me affirmative defense?

SENATOR ROBERGE: This whole issue came to play as a result of a court action and because the law wasn't clear, the severability wasn't clear, the Sears vs Roebuck case, the determination of severability wasn't made clear. This puts this discoverability of risk measured by the time of distribution, sale of the product, back into the law. It was taken out as a result of a court action and we've just put it back.

SENATOR KRASKER: What does it do?

SENATOR ROBERGE: Well, for instance, if you sold a product twenty years ago and as a result of technical changes in the twenty years, that product was now deemed defective, you wouldn't be held responsible at the time. If the product was a good product twenty years ago when you sold and distributed it, it would be held to that criteria.

SENATOR KRASKER: Why do we have to repeal an identical discoverability of risk law?

SENATOR ROBERGE: I believe it's because of that court action. It was taken out and it's being re-put back in.

SENATOR BOND: HB 936, was introduced by Representative Bass while he was a member of the Tort Reform Commission and the purpose of this bill, with which the Tort Reform Commission concurred, was to reinsert in statute something that had been taken out

because as Senator Roberge said, the severability within the statute was not clear. What this does, as she explained, if you developed a product in 1975, according to the state of the art at that time, and it failed in today's state of the art, it showed that that was a stupid way to have built the thing in the first place. You can't use today's state of the art as a means of prosecuting the poor guy who built it to the best of his ability in 1975.

Adopted. Ordered to Third Reading.

HB 999-FN, granting authority to the Commissioner of Environmental Services to levy administrative fines for certain violations, and authorizing the Director of Water Supply & Pollution Control to take certain emergency actions. Ought to Pass. Senator Preston for the Committee.

SENATOR PRESTON: HB 999 gives the authority to the Waste Supply and Pollution Control the right to administrative fines that are already granted regarding wetland laws. It extends these administrative fines now to waste, sewerage and clean water and should lead for quicker enforcement of the meeting of the water laws, rather than going to the expensive in-court routes.

SENATOR DISNARD: Senator, under the amended analysis, could you explain that second paragraph? I don't understand it. Are they going to be able to now fine some action that has happened in Winnepesaukee some time ago?

SENATOR PRESTON: That's right. That section four, the Winnepesaukee River Basin administrative fines, it gives the Water Supply and Pollution Commission the right to issue orders to comply with the Waste Treatment Facility. They didn't have that enforcement in the statutes before. This includes, the question was, putting things into that system that might have a detrimental effect on the treatment of facilities. All this does, in that section, is to prohibit the placing of such items or contaminates in that system that would have a bad effect on the treatment facilities. It gives them tighter enforcement.

SENATOR DISNARD: Is it the fairness of now because some action that we now want to give a department in the State authority to go find someone for something that they did before? I guess I don't understand.

SENATOR PRESTON: No, they already have it but they don't have it in certain sections. They don't have any enforcement in the section

regarding the Winnepesaukee River Basin, so people could be placing some contaminants in that system and there's no enforcement under the law for that particular section. It gives them the right they already have in their other departments.

Adopted. Ordered to Third Reading.

HB 849-FN, relative to claims against the state. Ought to Pass. Senator White for the Committee.

SENATOR WHITE: This is another very simple bill. We had a good hearing. Basically what it does is it allows state employees to recover property damages inflicted by another state employee. On page two of the act, section B is the new part. It'd go before the board of claims, so they would be the ones that could determine if compensation was appropriate. We felt that there were times that it would be appropriate and they need the bill to do it.

Adopted. Ordered to Third Reading.

HB 879-FN, establishing a study committee relative to the promotion of electric vehicles in the state. Inexpedient to Legislate. Senator Hounsell for the Committee.

SENATOR HOUNSELL: This bill establishes a six member study committee to study the development technology of electric powered motor vehicles and the possible use of such vehicles by the State. The committee, very strongly I believe, felt that this wasn't the function of the legislature, that this could be done in the free enterprise system and that this bill should be inexpedient.

Adopted.

HB 1036-FN, relative to motor vehicle inspections. Ought to Pass. Senator Hounsell for the Committee.

SENATOR HOUNSELL: I ask that I could do this committee report for the simple reason that in the past I fought against this and I can't continue to support the status quo because I think that it has turned into an opportunity for some people to take advantage financially of a situation where some cars that could pass shouldn't pass are going to be charged at a higher rate and some cars that couldn't pass might pass and I think it's a big mistake and I stand in support now of moving to an annual inspection of motor vehicles and I do so disappointed that what I thought was a better policy didn't seem to work.

SENATOR BLAISDELL: I guess there's no one in this room that fought against once a year inspections any harder than, other than probably Senator Bond, Senator Hounsell and Senator Charbonneau. I will not oppose this piece of legislation today, although I hope and pray that someone keeps the stats on it because I don't believe the truth has really been told about what has happened to other states that have done away with inspections. I do know that Florida now will reinstate inspections in their State, having just come back from there and finding out the mayhem that they've gone through. I guess this is what the people want, but I hope that in the long run once a year inspections will not cost the people twice as much, because that very often can happen. But I will support the committee report and I just do that so I can get some people off my neck in my area.

SENATOR HOUNSELL: Senator, would you believe that I still think that it is safer and more proper for people to do frequent inspections of their motor vehicles and I hope people don't take this as a vote on my part, and I'm pretty certain on your part, that once a year is adequate?

SENATOR BLAISDELL: Senator Hounsell, I believe you.

SENATOR CHANDLER: I rise in support of this bill. The Senator from Keene mentioned the fact that he hoped it would not cause the cost of inspection to go up. Well, I'd like to say that it's been my experience, I have to pay for three motor vehicles, and it's been my experience that instead of doubling the cost has tripled. I used to get a car inspected for \$5 and now it costs \$15 a piece. So, once a year is all I can afford.

SENATOR FREESE: I guess I too have been one of the sticks in the mud with regard to inspections twice a year. I still feel, in good conscience, it's a better way to do. However, my constituents don't agree with me and I'm going to give in and support this bill, but I've had experiences with my own cars and whether there's annual inspections or not, I'm going to have my cars looked over every six months because I think it saved my life.

SENATOR PRESTON: I'm pleased to hear the Senators stand up and say they will support this bill. Frankly, we've heard this over the years and the statistics never proved to the contrary, anything that we used to hear from the lobbyists and those who fought for twice a year inspections. All that opposition dissipated, it wasn't there this

session and frankly, I think we've done great justice to the consumers today because the people have very clearly conveyed a message to the politicians that once a year inspection is sufficient and I commend you for this report.

SENATOR WHITE: I wasn't going to say anything, but I finally decided that I had to. I have opposed annual inspections, also. But, when this bill came up I went to my local garage person, who does my inspections, and I asked his opinion on it. Basically, it was the garage lobbyists, to a great extent, that helped in defeating this bill, garage dealers. So, I asked him what's happening now and he said, I'm making much more money now with annual inspections than I did with semi-annual inspections. For instance, he said your brake shoes are about to go and if you bring your car in now, it will only cost you \$25 or \$50 as opposed to \$300 if you waited another six months to have the whole rotors down. So, I agree with Senator Freese, I had said that I wouldn't fight the bill, and I won't fight the bill, but I think in the long run it is going to cost us more. It's like getting your teeth done every six months, I still think you should have your car done. It's a big piece of equipment on the road and I think it's important that we stress the importance of safety. But, the people don't seem to want that, so this is for the people.

SENATOR BLAISDELL: Senator White, that was just the point I was trying to make. Senator Chandler brought it up the other way, that I was worried about the stickers and things. I'm saying that if you go a full year, without taking a look at your car. I had some bad breaks and I could have gotten killed if I hadn't brought it in right away and got it inspected. So, what I'm saying is that if you wait a year, you know you could run into a lot more problems than by looking at it twice a year. So, it's for your own safety.

SENATOR NELSON: Do you believe that I have the privilege of having some constituents here and I spoke with them and they support the bill? But, sir, the second half of the question is, could you not bring your car in at any time if you felt you had a problem?

SENATOR BLAISDELL: No question, I think you can do it if you want but you won't have an inspection thing. It'll be once a year to be inspected, that's all.

SENATOR JOHNSON: I think it's worthwhile to go ahead and go through this process like we're doing today, but I'd like to just re-

mind this body that there is nothing in this bill that precludes you from going and having your car inspected and checked out at any time.

Adopted. Ordered to Third Reading.

HB 1042-FN, relative to road toll laws and the regional fuel tax agreement. Ought to Pass. Senator Hounsell for the Committee.

SENATOR HOUNSELL: 1042 was introduced at the request of the Department of Safety and this bill makes miscellaneous changes in the regional fuel tax agreement and makes numerous administrative changes in existing statutes relating to road toll. This bill also repeals the section requiring service station reports on diesel fuel sold to the motoring public. It brings the three state regional fuel tax agreement compact into line. New Hampshire will be in line, that is, with Vermont and Maine.

Adopted. Referred to Finance (Rule #24).

HB 966, relative to cellular radio telecommunications services. Ought to Pass with Amendment. Senator St. Jean for the Committee.

Senator St. Jean moved to recommit HB 966.

Adopted.

Senator Dupont moved to put SB 238, relative to bail reform, on Second Reading at the present time.

Adopted.

Senator Dupont offered a floor amendment.

Floor Amendment to SB 238

Amend Section 13 of the bill by replacing it with the following:

13 Effective Date. This act shall take effect 60 days after passage.

Adopted. Ordered to Third Reading.

RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the

present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, March 17, 1988 at 1:00 p.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 1007-FN, relative to the date when municipalities must make payments to counties.

HB 870-FN, relative to surety bonds for county treasurers and other county offices, and relative to the administration of RSA 78-B by the commissioner of revenue administration.

HB 252-FN-A, relative to the rate of the business profits tax.

HB 627-FN, to provide a loss carry forward under the business profits tax and relative to partnership and proprietorship deductions for compensation.

HB 858-FN, relative to fetal alcohol syndrome.

HB 754-A, making an appropriation to acquire abandoned railroad rights-of-way and to rebuild, modernize and maintain the Rochester-Ossipee branch line, and relative to transfer of state railroad property interests to the city of Keene.

HB 867-FN, relative to bonding authority for the Conway village fire district.

HB 12, recodifying the workers' compensation law.

HB 732-FN, relative to workers' compensation special fund.

HB 789-FN, relative to the assessment of civil penalties under the workers' compensation law.

HB 936, relative to discoverability of risk in product liability actions.

HB 999-FN, granting authority to the Commissioner of Environmental Services to levy administrative fines for certain violations, and authorizing the Director of Water Supply & Pollution Control to take certain emergency actions.

HB 849-FN, relative to claims against the state.

HB 1036-FN, relative to motor vehicle inspections.

SB 238, relative to bail reform.

Senator Dupont moved that the Senate adjourn.
Adopted.

Adjournment.

Thursday, March 17, 1988

The Senate met at 1:00 p.m.
A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord we thank you for giving unto the world thy servant St. Patrick, 385-461, as we celebrate this day the date of his death! May we through his outreach with humility further our own lives and the outreach of our own country - as we face the recent development in Nicaragua and other hot spots throughout the World! Lord, have mercy upon us!

Amen

Senator Stephen led the Pledge of Allegiance.

HOUSE MESSAGE

The House of Representatives is ready to meet the Honorable Senate in Joint Convention at 1:25 p.m. for the purpose of hearing an address by Richard Upton.

INTRODUCTION OF GUESTS

Recess
Out of Recess

INTRODUCTION OF SENATE BILL

Approved for introduction by the Joint Rules Committee.

First and Second Reading and Referral

SB 356-FN, relative to involuntary admissions under limited circumstances for the developmentally impaired. (Senator Dupont of Dist. 6 - To Judiciary)

COMMITTEE REPORTS

HB 774-FN, relative to the New Hampshire municipal bond bank. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: HB 774-FN is in front of us today as a result of change at the national level and the tax laws. It deals with monies earned as a result of bonds that have already been sold and as a result of the changes, as I said, at the federal level, this bill needed to be brought in to allow the New Hampshire municipal bond bank to remain in compliance with federal law.

Adopted. Ordered to Third Reading.

HB 770-FN, relative to loan scam operators. Ought to Pass. Senator Torr for the Committee.

SENATOR TORR: This bill provides for a person found guilty of loan scam operations of a fine of \$10,000 or a year in jail. A loan scam operator is a person who advertises to loan money who has no funds to substantiate or back up that loan offer.

Adopted. Ordered to Third Reading.

HB 1106-FN, establishing a committee to develop a program to license certain construction in public waters. Inexpedient to Legislate. Senator Hounsell for the Committee.

SENATOR HOUNSELL: This bill established a study committee with a time frame that we thought was a little quick and a little unreasonable, considering the rest of the agenda that we have. We felt that is wasn't absolutely necessary for this to be studied so, we moved inexpedient.

Adopted.

HB 1159-FN, relative to the Southeast Regional Refuse Disposal District. Ought to Pass. Senator Hounsell for the Committee.

Senator Hounsell moved to lay HB 1159-FN on the table.

SENATOR HOUNSELL: This bill, we believe, is a good bill but there was some recent development in one of the towns affected by a vote of that town and we would like to put this on the table until we can find out the full impact of that.

Adopted.

HB 952, establishing a legislative committee to study boating laws and rules relative to boating. Inexpedient to Legislate. Senator Hounsell for the Committee.

SENATOR HOUNSELL: This bill established another study committee of which there would be five House members and two Senate members. Two things should be noted, this study committee existed in 1986 and that work had been completed so we saw no need for it there and, also, if there were House members who wanted to study this, we believe the Speaker could endorse that without our approval. We move inexpedient.

Adopted.

HB 1080-FN-A, relative to nongame species and making a continuing appropriation therefor. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: This bill, I think, is very important to not only the sportsmen of the State of New Hampshire, but to everyone who is interested in preserving and maintaining a viable wildlife resource. For many years, New Hampshire has had to carry the kind of black eye that we're the only state that puts no state fund towards nongame species management. There are a lot of reasons behind that and I think there are people who know more about the history of it than I do, but the fact remains that there's time for New Hampshire to now recognize that it has an obligation to the resource and to ourselves to participate in a nongame specie management program. The House saw that and they passed this bill. What they didn't pass, though, was a mechanism by which people could actively participate.

On page 15 there's an amendment that the committee offers and we would ask that, and we would expect Rule 24 to apply, that this money, which does call for \$50,000 of general fund money to be appropriated, would go to Finance where they could look at it to see if the money is available. But let me explain what the amendment does. By law, sportsmen's license fees can not be used towards nongame species management. I support that law. I think that sportsmen buy their license so that they can be active pursuers of the game in the sport of hunting, and I think that that is good policy. However, the same sportsman that agreed to that also understand that nongame species are vital to the chain. There are others who wouldn't hunt, there are people that just have a philosophic differ-

ence with hunting, but they want to participate in wildlife management. This amendment establishes a fund within the department. The State Treasurer shall establish a separate, nonlapsing account within the Department of Fish and Game to be known as the nongame species account to which monies obtained by the Fish and Game Department shall be applied, including any federal monies which may become available under the federal nongame act, any State funds appropriated and all donations received. The monies in this account shall be used exclusively for the development and implementation of a comprehensive nongame species management program. No money shall be expended for nongame management except from this dedicated fund, which restates the status quo. Also included in this is the Fish and Game Department shall issue a certificate of participation to any individual who donates not less than \$10 to the nongame species account. The Treasurer shall deposit annually from the general fund into the special account, an amount equal to the monies donated during the fiscal year under the paragraph above; including the total of \$50,000 annually. What this will do is allow the State and private people to work together to raise perhaps as much as \$100,000 to a much needed program. We urge your support to the amendment.

SENATOR MCLANE: I rise in strong support of the nongame species bill and the amendment that Senator Hounsell has proposed. I'm happy to have my name on that amendment, but it really was the work of Mark Hounsell to find some funding. In our Committee meeting we heard, first of all, the history of the nongame bill. For about 12 years this is a bill that has been before the legislature with several methods of funding, including, I think at one time, a tax on binoculars and a whole lot of other sort of way out reasons. But, the point remains that New Hampshire is, and here is the gist, the only State in the Union that puts no money in to nongame species. Our neighboring State of Maine puts \$125,000 on and Vermont \$50,000. The law does state that the executive director and the commissioner of Fish and Game are mandated to protect and conserve nongame birds of this State, but they never have. It is true that there are 420 different species of animal and bird in the State of New Hampshire and, of that number only 60 are hunted and yet, the Fish and Game Department has not had the money to deal with the entire food chain and the entire ecosystem. There was no objection in the Committee hearing to the idea that Fish and Game should care, also, about nongame species. I think that anyone who knows about the food chain and knows that little animals are eaten by bigger animals

would know that our ecosystem is not just interdependent. So, I would urge support of this legislation.

AMENDMENT TO HB 1080-FN-A

Amend RSA 212-B:6 as inserted by section 1 of the bill by replacing it with the following:

212-B:6 Fund Established, Continuing General Fund Appropriation to Match Donations.

I. The state treasurer shall establish a separate nonlapsing account within the fish and game fund to be known as the nongame species account to which moneys obtained by the fish and game department shall be applied, including any federal moneys which become available under the federal nongame act, any state funds appropriated, and all donations received. The moneys in this account shall be used exclusively for the development and implementation of a comprehensive nongame species management program. No moneys shall be expended for nongame management except from this dedicated fund.

II. The fish and game department shall issue a certificate of participation to any individual who donates not less than \$10 to the nongame species account established in paragraph I. The state treasurer shall deposit annually from the general fund into the special nongame species account an amount equal to the moneys donated during any fiscal year under this paragraph up to and including a total of \$50,000 annually. The governor is authorized to draw his warrant for such amount out of any money in the treasury not otherwise appropriated. This is a continuing appropriation.

AMENDED ANALYSIS

This bill establishes a nongame species management act.

Nongame species means all wildlife in the animal kingdom except those listed as furbearing animals, game animals, game birds, small game, unprotected birds, and fish and marine species which are regulated under fish and game laws.

This bill, as amended, prohibits any expenditure of funds for the nongame management program except from the dedicated fund established in this bill.

This bill, as amended, requires the state treasurer to make an annual deposit from the general fund of an amount equal to all donations made to the nongame species account during each fiscal year up to a total of \$50,000.

Amendment adopted. Referred to Finance (Rule #24)

HB 893-FN-A, making a supplemental appropriation to the fish and game department. Ought to Pass. Senator Preston for the Committee.

SENATOR PRESTON: This makes a supplement appropriation to the Fish and Game Department for game resources damage and for game resources management and research. I believe it was in the last session that we increased all the fees that the sportsmen have paid and the testimony of one of these sportsmen representing a Fish and Game Club the other day ways, we've paid in our money and you didn't appropriate the monies back to do what we wanted to do. So, that's essentially what this does. I'm sure it will come under the purview of Senate Finance, but I urge your passage at this time.

Adopted. Referred to Finance (Rule #24).

HB 762-FN-A, making supplemental appropriations to the fish and game department. Ought to Pass. Senator Freese for the Committee.

SENATOR FREESE: This bill appropriates to the Fish and Game Department \$325,000 for computer services and to upgrade their radio system. The appropriation will be charged against the available Fish and Game fund. Dr. Normandeau, the Director of the Fish and Game Department, among others such as the sportsman organizations, testified for the bill and there was no opposition. It came out at the hearing that these systems were, in some cases, over 20 years old particularly the radio equipment and network and that the parts were practically unavailable to keep the equipment operating. It is getting to the stage that much of the radio equipment, because of breakdowns, is not dependable and they have problems with some of their urgent communications and delays from time to time, which are apt to be crucial. The funds being appropriated have been generated by the Fish and Game Department, the effective date of the act will be upon passage and the committee unanimously recommends ought to pass.

Adopted. Referred to Finance (Rule #24).

HB 819, relative to the setting of black bear seasons. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: This bill has two amendments to it. The first amendment is something that the Senate has established as a

position in the past. In fact it was endorsed by the House by a defeat of a bill, 242, earlier this session, in that, what we have recommended that the Senate do is put back into it, the current language which is that the director, with the consent of the commission, can set the manner by which black bear are taken in this State. We think that that's what the sportsmen have clearly said and we recommend that this Senate endorse that.

The other amendment is that we allow the department, with the advice and consent of the commission, to do emergency closures if they find that there is a reason to believe that a specific animal is in trouble. Last fall, as many of you may recall, the department saw that there had been an overtaking in what they had anticipated of the black bear. They found that they had no authority to close the season and yet because of the willingness of the organized bear hunters in the State, they had an outstanding support from that group to agree that they would no longer take bears, even though they had the legal right to do so. There are two things that should be noted; that organization of bear hunters support both amendments in that they were, when asked by the State to help out, did so voluntarily and I think they should be commended for that.

SENATOR DISNARD: On behalf of some of the sportsmen in my area, I object to the amendment with the consent of the commission. They are of the opinion, as they explained it to me, that the State demands and grants certain authority to the commissioner himself, the director of the Fish and Game Department. Thereby, we dilute it and there's some question as to the authority the Fish and Game would have if we give and tell the director, that he or she, in this instance, he must do certain things. Then also telling the Fish and Game Commission they can override what he suggests. I think that's in conflict and the game people in my area object to this.

SENATOR HOUNSELL: Senator Disnard, just for your information, would you believe that there was absolutely no opposition to this idea in committee and that people from the sports groups, in particular, organized bear hunters, came asking us to do that?

SENATOR DISNARD: As a respected Chairman of that Committee, I do believe you.

AMENDMENT TO HB 819

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the setting of black bear seasons
and emergency closing of seasons.

Amend RSA 208:22, I as inserted by section 1 of the bill by replacing it with the following:

I. The executive director, with the consent of the commission, shall adopt rules, pursuant to RSA 541-A, relative to opening and closing the seasons for the taking of wild black bear, fixing the number of wild black bear that may be taken and any other conditions governing the methods and manner of taking and reporting of the same. The authority of the executive director as granted by this section may be exercised with reference to the state as a whole or for any specified county or part of a county [until January 1, 1988; provided, however, the executive director shall set the opening date of the bear season for 1989]. Dog training shall be permitted in accordance with RSA 207:12-a.

Amend section 2 of the bill by replacing it with the following:

2 Emergency Closures. Amend RSA 208 by inserting after section 4-b the following new section:

208:4-c Emergency Season Closure.

I. Notwithstanding any other provisions of rule or law, the executive director of the fish and game department, with the consent of the commission, whenever he shall deem such action necessary to protect the wildlife resources of the state, shall have the authority to initiate an emergency closure for any season on wildlife for which an open season has been declared.

II. Such emergency closure authority shall be for the state as a whole or for any section thereof.

III. When such emergency closures are initiated, the executive director shall cause such closure to be publicized in a newspaper with statewide circulation for 3 consecutive days.

IV. Any person who takes wildlife species during the period in which an emergency closure has been declared pursuant to this authority shall be subject to the same penalty which would be imposed for taking of the same species during the closed season.

3 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill removes the time limitation for the executive director of fish and game to set the season for taking wild black bear.

This bill, as amended, provides the executive director, with the consent of the commission, with authority to initiate the emergency closure of any season on wildlife for which an open season has been declared.

Amendment adopted. Ordered to Third Reading.

HB 993, relative to the taking of beaver. Ought to Pass with Amendment. Senator McLane for the Committee.

SENATOR MCLANE: This bill was put in at the request of the Fish and Game Department and it has to do with the beaver dams. Apparently, in the southern part of the State, there are plenty of beaver and there are a lot of new people and a lot of new houses. The Fish and Game Department is more and more bothered by people calling up and they call about skunks and they call about little animals, but mostly they call about beaver. What they call about are beaver dams that have flooded parts of their land that have not been flooded before. The Fish and Game has been sending their people down to investigate the situation. If the dam is on the person's land, they have been literally dynamiting the dams for the people. First of all, it is a very costly thing for the Fish and Game to do. Secondly, the more they talk the more horrified we all were because it turns out they've never been trained in the use of dynamite. It turns out that once they left one of the sticks that didn't go off and some kids found it. But, in general, the Fish and Game is not interested in this blowing up dams responsibility and so they asked us to put the burden for getting rid of beaver dams on the property owner who owns the property where the dam exist. This would also save them the liability that comes when a dam is destroyed and the water causes damage below. In fact, the Fish and Game Department had ended up paying money for a bridge that was taken half way out by letting go on a beaver dam. So, this is at the request of the Department, it is a responsibility that they don't want. There is protection in it for beavers in that, you can not bomb the beaver's house. There is protection for our water conservation in that, any pond that is large enough to fall under the water pollution standards would have to answer to that department before the beaver dam was destroyed. So, for all those reasons, we felt that this was a good bill.

SENATOR NELSON: I was just curious, there is a taking of beavers and the beaver dams, you can kill beavers and the beaver dams?

SENATOR MCLANE: There is a trapping season on beaver and this does nothing to affect that.

SENATOR NELSON: According to this bill, the land owner, employee, the tenant, the caretaker, and or any town or municipal or state official or employee, may destroy the beaver. You just mentioned beaver dams, does this allow all those people to kill beavers?

SENATOR MCLANE: I was under the impression that the beavers, if it is correctly within the season, it says, excuse me but I don't have my notes here, but I'm under the impression that it will not be different from present law.

AMENDMENT TO HB 993

Amend RSA 210:9, II as inserted by section 1 of the bill by replacing it with the following:

II. Notwithstanding paragraph I or any other provision of law or rule of the executive director or the water resources division of the department of environmental services, a landowner, his employee, tenant, or caretaker, or any town or municipal or state official or employee, may destroy beaver and beaver dams on property under their control to protect property, public highways, or bridges from damage or submersion with the permission of the owner of lands affected, if applicable.

AMENDED ANALYSIS

This bill, as amended, permits the destruction of beaver and beaver dams, without a special permit from the fish and game department, notwithstanding other laws or fish and game or division of water resources rules, on property under the control of a landowner or government official or employee to protect property, public highways, or bridges, with the permission of the landowner affected.

The executive director may require reporting of beaver taken.

The executive director shall provide advice on beaver control techniques.

The bill repeals the provisions relative to taking beaver in Coos county and certain towns.

This is a request of the fish and game department.

Amendment adopted. Ordered to Third Reading.

HB 816, prohibiting the hunting of mourning doves in New Hampshire. Ought to Pass with Amendment. Senator Preston for the Committee.

Senator Preston moved special order of business on HB 816 until Tuesday, March 22nd at 1:01 p.m.

Adopted.

HB 887, relative to the jurisdiction of marine patrol officers. Ought to Pass. Senator Freese for the Committee.

Senator Freese moved to lay HB 887 on the table.

SENATOR FREESE: Some of the members of the committee have some questions on this bill and we're going to move to table for the time being. I was asked by the Chairman of the committee.

Adopted.

HB 564-FN, authorizing any city or town to issue revenue bonds. Ought to Pass with Amendment. Senator Hough for the Committee.

SENATOR HOUGH: Your committee on Finance took testimony on HB 564, an act authorizing cities and towns to issue revenue bonds and our amendment to that bill is on page 10. What the amendment accomplishes is, upon advice from bond counsel in working with the State Treasurer and your legislative budget assistant's office holds harmless the financial integrity of the State of New Hampshire when these municipalities or counties were to enter into issuing revenue bonds. It protects the bonded indebtedness integrity of the State of New Hampshire. It's just a safeguard and that's what our amendment does.

AMENDMENT TO HB 564-FN

Amend RSA 33-B:9 as inserted by section 1 of the bill by replacing it with the following:

33-B:9 Governmental Consents.

I. Bonds may be issued under this chapter without obtaining the consent of any department, division, commission, board, or agency of the state except as provided in paragraph II, and without any other proceedings or the happening of any condition or things other than those proceedings, conditions or things which are specifically required therefor by this chapter, and the validity of and security for

any bonds issued by a municipality pursuant to this chapter shall not be affected by the existence or nonexistence of any such consent or other proceedings, condition or things.

II. If in the opinion of either the authorized officers or the state treasurer more than 1/2 of the revenues derived or expected to be derived from a revenue-producing facility will be in the form of rents, fees, grants or other moneys paid by the state, no bonds may be issued for the revenue-producing facility in excess of an amount approved for the purpose by the governor and council.

AMENDED ANALYSIS

As amended, this bill authorizes any city or town to issue revenue bonds. Such bonds may be issued for the construction of revenue-producing facilities. The amounts of the bonds are determined by a 2/3 vote of the legislative body of a city or by a 2/3 ballot vote of the legislative body of a town at an annual or special meeting.

As amended, the reference to agreements with the purchasers or makers of bonds in relation to the issuance of bonds by municipalities under lines of credit or other banking arrangements is deleted.

This bill includes sections on (1) the costs which may be financed by the issuance of revenue bonds; (2) the securing of revenue bonds by resolution or by trust or security agreements; (3) lines of credit, banking arrangements and insurance which may secure the revenue bonds; (4) the pledge of revenues; and (5) the issuance of refunding bonds.

This bill provides that bonds issued under this chapter are investment securities under the Uniform Commercial Code. Moneys resulting from the issuance of bonds under this chapter are deemed to be trust funds. Bonds issued under this bill are exempt from taxation by the state.

As amended, the bill limits the provision that bonds may be issued without first obtaining state governmental consent. If in the opinion of either the authorized officers or the state treasurer more than 1/2 of the revenues derived or expected to be derived from a revenue-producing facility will be in the form of rents, fees, grants or other moneys paid by the state, no bonds may be issued for the revenue-producing facility in excess of an amount approved for the purpose by the governor and council.

Amendment adopted. Ordered to Third Reading.

HB 1203-FN-A, relative to the payment of a claim against the state and making an appropriation therefor. Ought to Pass. Senator Hough for the Committee.

SENATOR HOUGH: Again, the committee on Finance took HB 1203-FN-A into consideration and we move ought to pass. This bill is like bills that come before this body on an annual basis wherein the attorney general's office, in a word, says you might as well admit negligence and settle this case because if it goes to court you're going to lose. This is this year's version and we recommend ought to pass.

Adopted. Ordered to Third Reading.

HB 1107-FN-A, establishing a committee to study legislative employees' and constitutional officers' retirement benefits and making an appropriation therefor. Ought to Pass with Amendment. Senator Blaisdell for the Committee.

SENATOR BLAISDELL: This bill appropriates \$7,000 to implement the results of a study of retirement benefits for legislative employees and constitutional officers. The bill also establishes a committee to recommend legislation which shall be incorporated into the results of the study. By the way, this bill as amended by the House, is responsive to the law of 1986 which we passed, RSA:65-5, which said that we would set forth certain legislative employees in the retirement system. We ask your support from Ways and Means.

AMENDMENT TO HB 1107-FN-A

Amend the introductory sentence and paragraph I of section 2 of the bill by replacing them with the following:

2 Membership. The committee shall consist of 8 members, as follows:

I. Four members of the senate, appointed as follows:

(a) Two members of the senate finance committee, appointed by the chairman of the committee.

(b) Two members of the senate executive departments committee, appointed by the chairman of the committee.

AMENDED ANALYSIS

This bill appropriates \$7,000 for the fiscal year ending June 30, 1989, to implement the results of a study of retirement benefits for legislative employees and constitutional officers.

As amended, the bill establishes a committee to recommend legislation which shall incorporate the results of the study, which shall include the definitions of a full-time employee and the buy-back of

previous service. The committee shall report its findings and recommend legislation for the 1989 session of the general court on or before December 1, 1988.

Amendment adopted.

SENATOR WHITE: Senator Blaisdell, did your committee ever consider amending it to also include legislators?

SENATOR BLAISDELL: Well, that was, by the way, I did say that, Senator White, because there's a certain person in this room that might have 20 years coming to him very shortly and I was very supportive of that, but I didn't get a second in the room. Although I thought Senator Hough maybe was getting close to it because he has 18 years in the service. But, it would have been a very good amendment if you'd like to put it in, Senator.

SENATOR WHITE: Well, considering that the constitutional officers did it with ten, I don't see why legislators couldn't do it with ten, but maybe you could just expand the role of the committee without an amendment.

SENATOR BLAISDELL: Well Senator, if you'd like to make that amendment again, I'd be very glad to support you. Since I'd be the one that would benefit from it. Is that group I or group II, by the way?

SENATOR WHITE: Group II.

Senator Delahunty offered a floor amendment.

SENATOR BLAISDELL: The amendment, I'm sorry I didn't bring this out, but when the original bill came to us I thought it was in there. It had three members of the Senate and four members of the House and we amended it, of course, to make us equal to make it four members of the Senate and four members of the House.

Floor Amendment to HB 1107-FN-A

Amend the bill by replacing section 2 with the following:

2 Membership. The committee shall consist of 8 members, as follows:

I. Four members of the senate, appointed as follows:

(a) Two members of the senate finance committee, appointed by the senate president.

(b) Two members of the senate executive departments committee, appointed by the senate president.

II. Four members of the house of representatives, appointed as follows:

(a) One member of the house appropriations committee, appointed by the speaker of the house.

(b) Three members of the house executive departments and administration committee, appointed by the speaker of the house.

Floor amendment adopted.

SENATOR WHITE: I see that it has two members for the Senate Executive Departments and yet it's the Insurance Committee that is the one that has been taking up the retirement bills.

SENATOR BLAISDELL: Well, this came out of the House. We saw no problem with it, it was out of the Executive Departments in the House, Senator, and we saw no problem with that in the Senate Insurance.

SENATOR WHITE: Well, I think it should be someone from the Insurance Committee because they are the ones that have done the background work in the retirement bill.

SENATOR BLAISDELL: I'll take care of it in Finance.

Referred to Finance (Rule #24).

HB 1099-FN, making New Hampshire retirement system maximum benefit limitations comply with the Tax Reform Act of 1986. Ought to Pass. Senator Bond for the Committee.

SENATOR BOND: This bill was requested by the New Hampshire retirement system. It is a housekeeping matter which brings the retirement system into conformity with the IRS code and tax reform act of 1986. There are penalties which would be assessed if we do not do that. We urge your support.

Adopted. Ordered to Third Reading.

HB 1091-FN-A, allowing the insurance commissioner to impose and collect fees for submissions of continuing education courses in the insurance field to reimburse the continuing education advisory council and making an appropriation therefor. Ought to Pass. Senator Roberge for the Committee.

SENATOR ROBERGE: The insurance commissioner has a program of continuing the education for brokers and consultants in the insurance industry. It has become, because it's expanded, and is now costing the commission more money than probably is comfortable. This gives the commissioner an opportunity to charge people submitting these courses to defray the cost of this continuing education.

Adopted. Ordered to Third Reading.

HB 1074-FN, relative to prior service credit for the retirement system. Ought to Pass. Senator Blaisdell for the Committee.

SENATOR BLAISDELL: This bill, by the way, will have absolutely no cost to the State of New Hampshire or to the retirement system. Everyone who wants to get credit towards retirement for past temporary service must write a check to the retirement system for the full cost of the value of that time. Buck consultants, as you know, calculate the value much like an insurance company calculates the value of the annuity. Not only does this person have to pay the full cost for the benefit, but the person must also pay for the cost of making the actuarial calculations as well. This bill will treat temporary employees equally. It adds no cost to the State, it had no opposition in any of the hearings and I urge my colleagues to support it.

SENATOR DISNARD: Senator Blaisdell, you had indicated and you usually know the background of what you're saying, there will be no cost to the State. It's my understanding from past experience, if someone wishes to buy up past time, not only must they pay a sum, but also there must be the sum by the employer applicable to that. Now, I don't understand.

SENATOR BLAISDELL: No, that's not true Senator. It's just as exactly as I explained it to you, there's no cost to the State whatsoever.

Adopted. Ordered to Third Reading.

HB 1063-FN, to revive the charter of Kappa Sigma House Inc. & Jackson Ski Touring Foundation Inc., non profit organization. Ought to Pass with Amendment. Senator Heath for the Committee.

SENATOR HEATH: Basically, this is one more in the renewal of charters and we've done so many of them that we felt, in the Public Affairs Committee, that we should address them, rather than continue to renew charters and we addressed them in this way.

In the amendment, you'll see language that allows the Secretary of State to renew these charters providing that the prior holders of the charter, who are asking for renewal, sign on penalty of perjury, that there are no pending law suits, that they're not, in other words, taking a short cut around the law in the years that they were unprotected. There's language in there in case someone has taken the name in the interim, if they can make an agreement with that person they can get the name back or use a similar name and so forth. So, beyond renewal of the charter involved, there's that language in the amendment and if we pass that I'd like to add the floor amendment which is language that the Secretary of State needs.

AMENDMENT TO HB 1063-FN

Amend the title of the bill by replacing it with the following:

AN ACT

reviving the charter of KAPPA Sigma House, Inc., Jackson Ski Touring Foundation, Inc., and Granliden Community Association, Inc., nonprofit organizations and making certain changes in the voluntary corporations law.

Amend the bill by replacing section 3 with the following:

3 Granliden Community Association, Inc.; Revival of Charter. Notwithstanding the 51-month limitation on revival of charters in RSA 292:30, I, the officers of the Granliden Community Association, Inc. may procure the revival of its charter which was revoked on April 26, 1977, by complying with the requirements of RSA 292:30, II-IV. Upon compliance with the requirements of RSA 292:30, II-IV, including the payment of any fees in arrears and the filing with the secretary of state of any returns required by law, revival of the charter shall be retroactive to April 26, 1977.

4 Similarity of Corporate Name. Amend RSA 292:3 to read as follows:

292:3 Name. Any corporate name may be assumed which is not [in use by any other corporation or company], the same as or deceptively similar to an existing corporation name, reserved or registered name, partnership or trade name; provided, that a similar name may be assumed if written consent is obtained from the holder of the existing name.

5 Change of Name; Foreign Corporations. Amend RSA 292:7 to read as follows:

292:7 Change of Name; Amending Articles. Any corporation now or hereafter organized or registered in accordance with the provisions of this chapter, and any existing corporation which may have been so organized or registered, may change its name, increase or decrease its capital stock, merge with or acquire any other corporation formed pursuant to this chapter, or amend its articles of agreement, by a majority vote of such [corporation] corporation's, board of directors or trustees, at a meeting duly called for that purpose, and by recording a certified copy of such vote in the office of the secretary of state and in the office of the clerk of the town or city in this state which is its principal place of business. In the case of a foreign nonprofit corporation registered in New Hampshire, a copy of the amendment or plan of merger, certified by the proper officer of the state of incorporation, shall be filed with the secretary of the state, together with the fee provided in RSA 292:5. The surviving corporation in a merger shall continue to have all the authority and powers vested in the merging corporations, including any powers previously conferred upon them by the legislature.

6 Reference Addition. Amend RSA 292:18 to read as follows:

292:18 Charitable Corporations. Any charitable corporation organized under an act of the legislature or [under general state laws] organized or registered in accordance with state law is empowered through its trustees or directors to establish, maintain and operate common trust funds as provided herewith under the appropriate standard of investment applicable to it.

7 Change in Required Renewal. Amend RSA 292:25 to read as follows:

292:25 Renewal Required. Every corporation organized under this chapter or by act of the legislature shall, [on or before January 1, 1976] during the calendar year 1990, and every [10] 5 years thereafter, make a return in writing to the secretary of state upon blanks to be furnished by him upon request and shall pay a fee of \$10. The return shall be signed [under oath] by the president [and secretary] or other officer of said corporation [or officers corresponding to such offices]. The return shall state the corporation's principal address and the names and addresses of all the officers and directors [of] or the governing board of the corporation. Any corporation which does not renew its charter as provided in this subdivision shall have its charter repealed, revoked and annulled; shall lose any right or title to the name under which it was incorporated; and shall be so advised in writing by the secretary of state. [The secretary of state shall notify by mail all active corporations which have a current principal address on file in his office of the requirements of this subdivision at least 60 days prior to the January 1 return date.]

8 Conditions for Revival of Charter; New Subparagraph. Amend RSA 292:30, I and II to read as follows:

I. Any corporation whose charter has been repealed, revoked and annulled pursuant to this subdivision may at any time [within 51 months of the due date of its decennial return] procure a revival of its certificate of incorporation, together with all the rights, franchises, privileges and immunities and subject to all of its duties, debts and liabilities which have been secured or imposed by its original charter and all amendments thereto[.]; provided, that if the corporation name is no longer available under the terms of RSA 292:3, the corporation shall file with its revival an amendment changing its name or a consent to use its original name.

II. The revival of the charter may be procured by [executing, acknowledging,] filing [and recording] a certificate of revival in the office of the secretary of state, which certificate is signed under oath and under penalties of perjury by an officer of the corporation and which certificate states:

(a) The name of the corporation, which shall be the name it bore when its certificate of incorporation expired;

(b) The address at which the business of the corporation is to be carried on;

(c) The names and addresses of all the officers and directors or governing board of the corporation;

(d) That the corporation desiring to be revived and so reviving its charter was organized under the laws of this state;

(e) The facts as may show that the charter has been forfeited pursuant to this subdivision;

(f) That the certificate is filed by authority of those who were directors or members of the governing body of the corporation at the time its charter was repealed, revoked and annulled, or who were elected directors or members of the governing body of the corporation as provided in paragraph VI of this section[.];

(g) That no legal action is pending against the corporation.

9 New Paragraph; Satisfaction of Secretary of State Required. Amend RSA 292:30 by inserting after paragraph VII the following new paragraphs:

VIII. If the secretary of state is not satisfied that a certificate of revival is authorized by the directors or stockholders of a corporation as required by this section, he may decline to accept the certificate and the revival shall not occur.

10 Repeal. RSA 292:26, relative to reinstatement of corporations, is repealed.

11 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill revives the charter of Kappa Sigma House, Inc., retroactive to April 26, 1977, and changes the name of Kappa Sigma House, Inc. to Number Seven Webster, Inc.

This bill also revives the charter of Jackson Ski Touring Foundation, Inc., retroactive to April 26, 1977.

This bill, as amended, revives the charter of the Granliden Community Association, Inc., retroactive to April 26, 1977.

The bill, as amended, also makes the following changes in RSA 292:

(a) Conforms the name provisions to the business corporation law and allows for consent to use similar names.

(b) Changes the renewal period from 10 to 5 years beginning in 1990 and removes the notarization requirement.

(c) Removes the time limitation on the revival of dissolved non-profit organizations so that action by the legislature is unnecessary.

Amendment adopted.

Senator Heath offered a floor amendment.

SENATOR HEATH: In the floor amendment that you're receiving now, there's language that the Secretary of State needed when we changed language dealing with foreign corporations and so on, some time back. There was a glitch and I can't explain it to you in great detail, but in any case, this is really just technical language that needs to be changed.

SENATOR MCLANE: Senator Heath, seeing that this was my bill and I went through the House committee and I remember this discussion. My question of you is, have you talked with the House about this amendment and is there an agreement with that statutory revision committee?

SENATOR HEATH: I don't know if anyone else has, I have not talked to the House, but I can't help but believe that they'll see the wisdom of doing this. It's an enormous cost to the State each time a bill is sponsored. We have no investigative arms. We can't, when somebody is renewing a charter, there's no penalty of perjury that there would be for misinformation under the amendment and I think they'll see the wisdom of it and be relieved that they're not constantly doing this and leaving the questions that always go unanswered in the renewal of the charter; are we interfering with a potential lawsuit that maybe going on.

SENATOR MCLANE: I agree with you completely in having seen the problems that these people from Jackson, these volunteers, had who had to come down again and again, but I just wanted to be sure that the Secretary of State had drafted that and he is willing to go with you to statutory revision.

SENATOR HEATH: The Secretary of State is in favor of this and if that were to endanger the bill I would be glad to add that on to the committee to act on this separately. I think that they'll see the wisdom of it and go along with it.

Floor Amendment to HB 1063-FN

Amend RSA 292:7 as inserted by section 5 of the bill by replacing it with the following:

292:7 Change of Name; Amending Articles. Any corporation now or hereafter organized or registered in accordance with the provisions of this chapter, and any existing corporation which may have been so organized or registered, may change its name, increase or decrease its capital stock, merge with or acquire any other corporation formed pursuant to this chapter, or amend its articles of agreement, by a majority vote of such [corporation] corporation's board of directors or trustees, at a meeting duly called for that purpose, and by recording a certified copy of such vote in the office of the secretary of state and in the office of the clerk of the town or city in this state which is its principal place of business. In the case of a foreign nonprofit corporation registered in New Hampshire, a copy of the amendment or plan of merger, certified by the proper officer of the state of incorporation, shall be filed with the secretary of the state, together with the fee provided in RSA 292:5. The surviving corporation in a merger shall continue to have all the authority and powers vested in the merging corporations, including any powers previously conferred upon them by the legislature.

Amend RSA 292:25 as inserted by section 7 of the bill by replacing it with the following:

292:25 Renewal Required. Every corporation organized under this chapter or by act of the legislature shall, [on or before January 1, 1976] during the calendar year 1990, and every [10] 5 years thereafter, make a return in writing to the secretary of state upon blanks to be furnished by him [upon request] and shall pay a fee of \$10. The return shall be signed [under oath] by the president [and secretary] or other officer of said corporation [or officers corresponding to such

offices]. The return shall state the corporation's principal address and the names and addresses of all the officers and directors [of] or the governing board of the corporation. Any corporation which does not renew its charter as provided in this subdivision shall have its charter repealed, revoked and annulled; shall lose any right or title to the name under which it was incorporated; and shall be so advised in writing by the secretary of state. [The secretary of state shall notify by mail all active corporations which have a current principal address on file in his office of the requirements of this subdivision at least 60 days prior to the January 1 return date.]

Floor amendment adopted. Ordered to Third Reading.

HB 775, to revive the charter of the Fuller Foundation of New Hampshire, Inc., a non-profit organization. Ought to Pass with Amendment. Senator Krasker for the Committee.

SENATOR KRASKER: This is another instance of a nonprofit charter having lapsed. The charter of the Fuller Foundation of New Hampshire, Inc. lapsed due to an administrative error and the foundation is requesting that the charter be revised retroactively as provided under the provisions of the bill. I'm very well acquainted with the Fuller Foundation, it's a major contributor to the State of New Hampshire, particularly in the seacoast area. We're very indebted to all the good grants they've made to seacoast organizations.

The amendment on the bill is the same as the amendment on the other bill that adds the words; and under penalties of perjury and that no legal action is pending against the corporation. I would urge your support.

AMENDMENT TO HB 775

Amend the title of the bill by replacing it with the following:

AN ACT

to revive the charter of the Fuller Foundation of New Hampshire, Inc., a nonprofit organization; and relative to
revival of charters of dissolved
nonprofit organizations.

Amend the bill by replacing section 2 with the following:

2 Revival of Charter; New Subparagraph. Amend RSA 292:30, II to read as follows:

II. The revival of the charter may be procured by [executing, acknowledging,] filing [and recording] a certificate of revival in the

office of the secretary of state, which certificate is signed under oath and under penalties of perjury by an officer of the corporation and which certificate states:

(a) The name of the corporation, which shall be the name it bore when its certificate of incorporation expired;

(b) The address at which the business of the corporation is to be carried on;

(c) The names and addresses of all the officers and directors or governing board of the corporation;

(d) That the corporation desiring to be revived and so reviving its charter was organized under the laws of this state;

(e) The facts as may show that the charter has been forfeited pursuant to this subdivision;

(f) That the certificate is filed by authority of those who were directors or members of the governing body of the corporation at the time its charter was repealed, revoked and annulled, or who were elected directors or members of the governing body of the corporation as provided in paragraph VI of this section[.];

(g) That no legal action is pending against the corporation.

3 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill revives the charter of the Fuller Foundation of New Hampshire, Inc., retroactive to April 26, 1977.

The bill, as amended, allows dissolved nonprofit organizations to revive their charters by filing a certificate of revival which shall include a statement that no legal action is pending against the corporation.

Amendment adopted. Ordered to Third Reading.

HB 753, reinstating the charter of Bethlehem Mink Farm, Inc. Ought to Pass with Amendment. Senator Heath for the Committee.

SENATOR HEATH: This is another good reason for changing the law. What we've done is, until this change passes, we've amended this penalty of perjury clause for misrepresentation on to each one of these charter changes and this is one of those.

AMENDMENT TO HB 753

Amend the title of the bill by replacing it with the following:

AN ACT

reinstating the charter of Bethlehem Mink Farm, Inc. and the charter of James A. Smith Contracting, Inc.; and relative to revival of charters of dissolved nonprofit organizations.

Amend the bill by replacing section 2 with the following:

2 Reinstatement of Charter of James A. Smith Contracting, Inc. The charter of James A. Smith Contracting, Inc. of Concord, New Hampshire, was forfeited on October 30, 1980, under RSA 294:107-a and 294:119. Upon payment of any fees in arrears plus a reinstatement fee of \$50 and the filing with the secretary of state of any annual returns required by law, and by appointing an agent and filing a statement of change of agent or registered office as required, James A. Smith Contracting, Inc. shall be hereby reinstated for all purposes as a New Hampshire corporation, and this reinstatement shall be retroactive to October 30, 1980.

3 Revival of Charter; New Subparagraph. Amend RSA 292:30, II to read as follows:

II. The revival of the charter may be procured by [executing, acknowledging,] filing [and recording] a certificate of revival in the office of the secretary of state, which certificate is signed under oath and under penalties of perjury by an officer of the corporation and which certificate states:

(a) The name of the corporation, which shall be the name it bore when its certificate of incorporation expired;

(b) The address at which the business of the corporation is to be carried on;

(c) The names and addresses of all the officers and directors or governing board of the corporation;

(d) That the corporation desiring to be revived and so reviving its charter was organized under the laws of this state;

(e) The facts as may show that the charter has been forfeited pursuant to this subdivision;

(f) That the certificate is filed by authority of those who were directors or members of the governing body of the corporation at the time its charter was repealed, revoked and annulled, or who were elected directors or members of the governing body of the corporation as provided in paragraph VI of this section[.];

(g) That no legal action is pending against the corporation.

4 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill reinstates the charter of Bethlehem Mink Farm, Inc. retroactive to November 3, 1986.

The bill, as amended, also reinstates the charter of James A. Smith Contracting, Inc. retroactive to October 30, 1980.

The bill, as amended, allows dissolved nonprofit organizations to revive their charters by filing a certificate of revival which shall include a statement that no legal action is pending against the corporation.

Amendment adopted. Ordered to Third Reading.

HB 781, amending the uniform limited partnership act and making reference changes in the disclosure of security takeovers act. Ought to Pass. Senator Heath for the Committee.

SENATOR HEATH: This is another set of technical changes in the corporate laws and at the time that we heard it, it made sense to me, but I've forgotten all about the details of it but it is language from the Secretary of State. If you have any questions we can put it on the table and I will get you answers. But I couldn't tell you right now what it's all about but at the time I understood it and it made good sense. In other words, trust me!

Adopted. Ordered to Third Reading.

HB 1046-FN-A, relative to the distribution of tax on pari-mutuel pools. Ought to Pass with Amendment. Senator Blaisdell for the Committee.

SENATOR BLAISDELL: Senate Ways and Means replaced the entire bill that came over to us from Regulated Revenues. The bill was passed in the Regulated Revenues Committee of the House with the intention of clarifying an error from last session which struck out the third year of the tax break that we gave to Rockingham Park. In the process of making that clarification, it seemed to somehow simulcast racing was affected. The amendment that we passed in the Ways and Means Committee corrects the error; there's no cost to the State by the reenactment of this provision because when the budget was prepared two and a half years ago it took the 1988 calendar period into consideration. The commission spoke in favor of the bill and we ask your support.

AMENDMENT TO HB 1046-FN-A

Amend the bill by replacing section 1 with the following:

1 Pari-Mutuel Pools. Amend RSA 284:22, I to read as follows:

I. The commission on all win, place and show pari-mutuel pools at tracks or race meets at which running horse races are conducted for public exhibition shall be uniform throughout the state at the rate of 19 percent of each dollar wagered in such pools, and the commission on all other pari-mutuel pools at such tracks or race meets shall be uniform throughout the state at the rate of 26 percent of each dollar wagered in such pools. Except as provided in the introductory paragraph of this section, the amount of the purse at such tracks or race meets at which running horse races are conducted shall be 8-1/4 percent of each dollar wagered in all pari-mutuel pools, said 8-1/4 percent to be paid by the licensee out of the commission on such pools. In addition to the above commission, 1/2 of the odd cents of all redistribution based on each dollar wagered exceeding a sum equal to the next lowest multiple of 10 (except, with simulcast wagering, in cases where the licensee pays out more than the total amount in the pool, the lowest multiple of 5 shall be used), known as "breakage", shall be retained by the licensee, and the balance of such breakage shall be paid to the state treasury for the use of the state in accordance with the provisions of RSA 284:2. Each licensee shall pay the tax provided for in RSA 284:23. During the calendar years [1986] 1987 and [1987] 1988 only, the licensee shall add to said purse fund 3/4 of one percent of all pari-mutuel pools at tracks or race meets at which running horse races are conducted, and the state shall add to said purse fund the residual unclaimed thoroughbred pari-mutuel ticket fund left after one year under RSA 284:31 plus 1/2 of the breakage received by the state under this section and 1/2 of the tax received by the state under RSA 284:23, I; during the calendar years 1995, 1996, and 1997 only 3/4 of said breakage shall be paid to the state and 1/4 to the licensee. Said 1/2 of the tax received by the state under RSA 284:23 and added to said purse fund under the provisions of this section shall not annually exceed \$1,000,000 for each of the calendar years [1986] 1987 and [1987] 1988.

AMENDED ANALYSIS

This bill, as amended, extends the requirements that licensees contribute 3/4 of one percent of all pari-mutuel pools to the purse fund and that the purse fund annually shall not exceed \$1,000,000 through 1988.

The amended bill also requires 3/4 of the breakage to be paid to the state and 1/4 to the licensee during the calendar years 1995, 1996, and 1997.

Amendment adopted. Ordered to Third Reading.

HB 995-FN, relative to exemption from the gasoline tax and state license plates. Ought to Pass with Amendment. Senator McLane for the Committee.

SENATOR MCLANE: This bill was put in after the fiscal audit showed that the transportation department was doing this anyway which was allowing the CAP, or community action program vehicles to be exempt from the gas tax and to go free through the toll gates with state license plates. So, this literally, this bill, gives statutory authority to do what the transportation department has done since 1979. The testimony was that this would save the CAP program \$58,000 because they have 85 vehicles and that the vehicles are used for Head Start, for the Meals on Wheels program and for the rural transportation and weatherization program. So, our committee said that this should be ought to pass.

AMENDMENT TO HB 995-FN

Amend the bill by replacing all after section 2 with the following:

3 Road Toll; Exemptions. Amend RSA 260:32, V to read as follows:

V. Bulk sales from distributors to any city, town, county, school district, [or] village district[.], or community action program approved by the commissioner under rules adopted pursuant to RSA 21-P:14, V(k).

4 Effective Date. This act shall take effect upon its passage.

Amendment adopted. Ordered to Third Reading.

HB 966, relative to cellular radio telecommunications services. Ought to Pass with Amendment. Senator St. Jean for the Committee.

SENATOR ST. JEAN: This bill was reheard again this morning, because of some questions that a Senator had. I urge, after listening to the testimony this morning, the committee agreed that the amendment, which makes the bill effective immediately upon signature, that we vote down the amendment and return to the original bill.

Amendment failed.

Senator Podles moved to substitute interim study for the committee report.

SENATOR PODLES: HB 966 the cellular radio telecommunications bill, if you pass this bill it will be exempt from being a utility. It's special legislation for a special industry. Right now, at the present time, it is a public utility and it would be subject to PUC regulation under a certain statute and also taxation under a certain statute. On November 9, 1987 a PUC decision held that they were a public utility under the definition. But on December 8 of 1987, this decision was appealed to the New Hampshire Supreme Court and the Supreme Court has not yet accepted or declined to hear the case. If you pass this bill it will be a moot point. HB 966, as you're passing it now, is silent on the issue of taxation. It presents three serious problems; first, the PUC's loss of jurisdiction over this industry; and number two, a potential tax loss and also the one that concerns me is the appeal before the Supreme Court that has not accepted or declined to hear the case. I spoke to the chairman of PUC because I was very concerned about that. I called the office yesterday. He was in Boston, but he was very gracious and he called me from Boston and we talked about the regulation. He said he does not want to give all of the regulation. He would like to be able to set the rates to at least monitor, to have this industry be registered with the PUC. He would like to receive reports, financial material, help to set the standards for this industry and if there's any discrimination of prices he would like to be working with them. With this bill, if you pass this bill, the PUC loses all jurisdiction, all regulations, they are out there on their own, only regulated by the FCC, which is the Federal Government. You are letting them out the door, once the bill is passed, the door will shut. I'm concerned about their potential tax loss because I just feel that this service, this industry, does everything a land line telephone service will do. It's carrying a telephone message and why shouldn't they be taxed like a telephone company? For your information, New England Tel & Tel and AT&T brings in about nine million dollars. I think what will happen is that the other telephone companies can come in and ask for the same exemption. I would ask you to vote with me to put this into interim study to have at least a partial regulation. We can study this and if we feel that there is no need for it, then we can take on a vote again, but I really think this should go into interim study.

SENATOR CHARBONNEAU: I, too, support Senator Podles, to send HB 966 to interim study. There are too many questions about this bill. There is no reason to rush this bill through. This bill deserves more study and later down the road we might be saying we were too hasty to pass HB 966. That is the reason we should send this back to interim study.

SENATOR WHITE: I think Senator Podles has outlined her concerns very well and I support interim study. I heard that Representative Sallada has a study committee going on in the House that will be looking at all of this new growth industry, it's a brand new industry in the State of New Hampshire and I think before we set a precedent of taking them out of the tax potential, that now is the time to look at it and determine if we really want to go in the direction that we're going. I think that Eleanor has outlined it and the PUC should still have input into this new telecommunications and I would just refer you to the cable people and their lack of response to constituents and to people when they have a problem. I had a problem over in my area and finally I got on the phone and called them and said, do you people really want to be regulated and they finally cleaned up their act. There was a condominium project in Peterboro and since it had been installed they had never put the right lines in to one of the units. Finally, when I called they finally went over, but I think we should have some handle on these new growth industries and find out just exactly what they're doing and show them that we do care what is happening in the future.

SENATOR JOHNSON: Senator White, would you regard a vote for interim study as a vote in favor of regulation?

SENATOR WHITE: No.

SENATOR JOHNSON: Senator, would you regard a vote for interim study as being in favor of the notion of putting a tax on this industry?

SENATOR WHITE: No, I think we've got a brand new industry, as I indicated, similar to cable. Let's look at it, find out what the ramifications are. I don't know what the ramifications are, I don't know the collation between this and a regular telephone company. But, we do, as Senator Podles pointed out, reap about nine million dollars from the telephone tax and what happens if we exempt one portion of that community.

SENATOR ST. JEAN: I rise in opposition of the pending motion. Senator Podles went over a number of interesting points. One of which is a loss of regulation by the PUC. What has occurred here is that the FCC, when they put together the four individuals that are going to be the line carriers here, created competition. When the PUC looses the regulation, what happens is there's competition and there's very, very fierce competition going on right now. The reason

that this whole matter ended up in court was, there was a question of jurisdiction and that's why it's pending. What this legislation would do is clearly take it out of the hands of the PUC and I think that when it comes to this industry, we need less regulation and more competition. The reason why the bill was passed with the amendment, or why we thought we would want that amendment on, was to get the competition process begun immediately. As far as the PUC goes, when Arnold testified at the first hearing and those concerns of the PUC has were not voiced through Mr. Arnold at all so, I don't doubt what Senator Podles said, but he certainly had ample opportunity to testify before our committee and also the House committee. As far as the question of taxes goes, and whether the telephone company or anyone else in their nine million dollar tax obligation to the State of New Hampshire will come in and somehow will not be paying taxes any longer. But, you have to remember it's not the telephone company that are paying these taxes, it's you or I, all you need to do is, of course, is look at your phone bill and see the tax that's added on to the phone bill. It's individuals that pay taxes. Representative Sallada, who's head of the subcommittee, testified before our committee this morning, it doesn't make any difference whether we pass this legislation or not. Representative Ward can handle that over in the Ways and Means Committee if she feels, in some way, we're going to loose some given tax revenue. So, I don't feel that this bill in any way will implicate that matter. I think this bill is a straight forward piece of legislation that forces some competition out there and I think these people want and deserve competition and passage of this legislation will reward them with that because that's what this State is all about - competition, not more regulation.

SENATOR WHITE: Senator St. Jean, do you think it's good practice to put a bill in that would negate something that's already in the court system from having a full hearing before the Supreme Court?

SENATOR ST. JEAN: I think in this regard, it takes it out of the court system and gets these things on line as expeditiously as possible. I could have only hoped that we would have passed this legislation before the Presidential Primary so that those individuals that traveled into this State, including the Presidential Candidates, news media and every one else, who wanted car phones would have been able to avail themselves to car phones in this State, Senator.

SENATOR WHITE: Do you believe we should pass legislation when we have that same exact case in the courts?

SENATOR ST. JEAN: In this particular instance, I do, Senator.

SENATOR DUPONT: Senator White, is it not true that we gave the PUC the authority to regulate utilities in the State of New Hampshire?

SENATOR WHITE: Yes, we did.

SENATOR DUPONT: Then wouldn't we not have the right to determine what utilities they are going to regulate and that is not a right that resides in the court. Am I not correct?

SENATOR WHITE: You could be right.

SENATOR PRESTON: I urge the good Senators to vote against the pending motion of interim study. I'm a little shocked at the Senators speaking for interim study for the seeking more regulation and opposing the free market place here. The PUC was created to deal with monopoly, not to interfere with the free enterprise system. Would the proponents of this motion rather have study of their telephones and Nynex and all go in and divy up the State, like Public Service or actually Hampton Electric does or Rockingham Electric does, instead of having a free market place where there's competition on prices and the consumer can benefit. That's a smoke screen to say no taxes are paid. Taxes are being paid on the portion of the phone lines I use from my car telephone and they're being paid by the consumer, so don't say no tax is being paid. That's absolutely ridiculous. The consumer pays it, we pay as the users. If we're going to do this let's be consistent. Why not regulate all the car radios, why not regulate commercial walkie-talkies in the State, if you don't think the federal communications is doing it well enough now. The FCC overlooks the type of telephone communications we're looking at. You can study this subject anyway. You can study cable television anyway. Do it next January, but if you want the PUC and more regulations, vote with Senator Podles. If you support the free market place and benefits to the consumer, defeat this pending motion.

SENATOR DUPONT: I wasn't going to speak, but I think there are a couple of points that I ought to stand and make because I do have some concerns. The first concern relates to the interim study motion in front of us. You know, the PUC is there for a reason; it's there to regulate an industry that in the past, perhaps because of its monopoly position, needed regulation. We have in front of us an exciting new industry that has not yet demonstrated any irresponsibility. In fact, they have demonstrated to us that competition is alive and well

and that competition has traditionally been the consumer's best friend. We wouldn't need a PUC if we didn't have a problem with a monopoly at some point in time in our history, and we certainly didn't create the PUC before we had a monopoly. The monopoly was created then the PUC was created to deal with that monopoly. So, basically, we have a situation in front of us where we have an opportunity to let free enterprise, which has been the basis of this country for so many years, have an opportunity to act and act responsibly. I'll be the first one in with a piece of legislation if they demonstrate otherwise, but I think we owe it to them to at least give them a chance to serve the market place without our interference. So, I urge the defeat of this interim study motion and will urge passage of this bill.

SENATOR WHITE: Senator Preston, a couple of times you referred to that part in our telephone bill where we see a tax. Isn't that in fact a federal tax?

SENATOR PRESTON: I don't know, but I know the consumer pays it.

Roll Call requested by Senator Charbonneau.
Seconded by Senator Johnson.

The following Senators voted yes: White, Charbonneau, Podles and Johnson.

The following voted no: Bond, Hounsell, Heath, Freese, Hough, Dupont, Chandler, Disnard, Roberge, Blaisdell, Nelson, McLane, Bartlett, St. Jean, Torr, Delahunty, Preston, Krasker.

4 Yeas

18 Nays.

Motion Lost.

Question: Ought to Pass.

Adopted. Ordered to Third Reading.

ENROLLED BILLS REPORT

HB 41, providing that the condemnee, his heirs and assigns shall have first option to purchase any property condemned by eminent domain, if said property is abandoned for any reason by condemnor.

HB 58, relative to the disqualification of local land use board members.

HB 705, relative to itinerant vendors.

HB 768, relative to the frequency of regional highway conferences.

HB 904, relative to the Vermont state income tax.

HB 922, relative to providing flags for use in school classrooms.

HB 954, relative to the boilers and pressure vessels law.

HB 989, relative to towed farm implements.

HB 1060, establishing a limitations period for claims of procedural defects in the enactment of municipal legislation.

TAKEN FROM THE TABLE

Senator Krasker moved to take HB 874 off the table.

SENATOR KRASKER: On our last session day, we voted to put HB 874, an act permitting every county attorney to appoint an assistant county attorney, on the table. Senator Hounsell had some questions, he wanted time to study it. I certainly was agreeable to putting it on the table to give him or any Senator more time. He's come to me, he's satisfied, there are no problems with the bill. Senator Heath, Senator Pressly and I were on the committee that heard this bill and we all voted in favor of it. I would ask you now to take it off the table and then adopt the bill.

Adopted.

HB 874, permitting every county attorney to appoint an assistant county attorney. Ought to Pass. Senator Krasker for the Committee.

SENATOR DISNARD: As I recall, this would not bypass the commissioners of the county delegation, they could still say yes or no. Is that correct?

SENATOR KRASKER: Absolutely, the county delegation, in every instance, has the final authority to determine a budget.

SENATOR BOND: Senator Krasker, was there any committee amendment to this bill when it came to the floor previously?

SENATOR KRASKER: I don't have the calendar that has the amendments with it. Perhaps Senator Heath remembers. I think we may have amended the bill, but we approved of what we did. Senator Heath can help me out.

CHAIR: We have the bill, it's in the assistant clerk's hands, and there is no amendment on it.

SENATOR HOUNSELL: I rise in support of this bill. I appreciate Senator Krasker allowing me the opportunity to look further at it and I have no problem with it. My questions have been answered satisfactorily.

Adopted. Ordered to Third Reading.

VACATE

Senator Krasker moved to vacate HB 1128, establishing child support guidelines, and establishing a committee to study child support issues, from Public Institutions, Health and Human Services to Judiciary.

Adopted.

RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Tuesday, March 22, 1988 at 1:00 p.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 774-FN, relative to the New Hampshire municipal bond bank.

HB 770-FN, relative to loan scam operators.

HB 819, relative to the setting of black bear seasons and emergency closing of seasons.

HB 993, relative to the taking of beaver.

HB 564-FN, authorizing any city or town to issue revenue bonds.

HB 1203-FN-A, relative to the payment of a claim against the state and making an appropriation therefor.

HB 1099-FN, making New Hampshire retirement system maximum benefit limitations comply with the Tax Reform Act of 1986.

HB 1091-FN-A, allowing the insurance commissioner to impose and collect fees for submissions of continuing education courses in the insurance field to reimburse the continuing education advisory council and making an appropriation therefor.

HB 1074-FN, relative to prior service credit for the retirement system.

HB 1063-FN, reviving the charter of KAPPA Sigma House, Inc., Jackson Ski Touring Foundation, Inc., and Granliden Community Association, Inc., nonprofit organizations and making certain changes in the voluntary corporations law.

HB 775, to revive the charter of the Fuller Foundation of New Hampshire, Inc., a nonprofit organization; and relative to revival of charters of dissolved nonprofit organizations.

HB 753, reinstating the charter of Bethlehem Mink Farm, Inc. and the charter of James A. Smith Contracting, Inc.; and relative to revival of charters of dissolved nonprofit organizations.

HB 781, amending the uniform limited partnership act and making reference changes in the disclosure of security takeovers act.

HB 1046-FN-A, relative to the distribution of tax on pari-mutuel pools.

HB 995-FN, relative to exemption from the gasoline tax and state license plates.

HB 966, relative to cellular radio telecommunications services.

HB 874, permitting every county attorney to appoint an assistant county attorney.

Senator St. Jean moved reconsideration on HB 966, relative to cellular radio telecommunications services.

Motion failed.

Senator Dupont moved that the Senate adjourn.
Adopted.

Adjournment.

Tuesday, March 22, 1988

The Senate met at 1:00 p.m.
A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, we thank you for this period of self analysis - which we call Lent! Rekindle within us the knowledge of our "Duty towards God", and our "Duty towards our Neighbor".

Amen

Senator Podles led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

ENROLLED BILLS REPORT

HB 330, relative to an exception to the real estate transfer tax.

HB 499, relative to return of recovered property.

HOUSE MESSAGES

HOUSE CONCURS

SB 245, limiting the horsepower of boat motors on Long Pond in the town of Northwood.

SB 257, extending the reporting date of the biomass study committee.

SB 268-FN, relative to litigation of small claims.

SB 325-FN, relative to providing support of families coping with a severely disabled child or young adult family member using funds already appropriated.

HOUSE REQUESTS CONCURRENCE WITH AMENDMENTS

SB 260-FN, relative to detection of airborne radon in homes.

Senator Disnard moved to concur.

Adopted.

SB 258, relative to boating restrictions on Little Diamond Pond in the town of Stewartstown.

Senator Hounsell moved to concur.

Adopted.

SB 250, changing the reporting date for the task force to study support services for families with developmentally disabled children.

Senator Bond moved to concur.

Adopted.

COMMITTEE REPORTS

HB 777-FN, relative to real estate appraisals conducted by banks and other lending institutions for loan applicants. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: HB 777-FN, as amended by the Senate, allows for an individual who has applied for a real estate appraisal as a component of a loan application, and that real estate appraisal has been paid by the individual, it allows for him to request a copy in writing from the lending institution. The request shall be made in writing. The original bill, as it came into the Senate, was a little bit different. As a result of some work between the New Hampshire Bankers' Association, the sponsor and the Banking Commissioner, we've come up with this amendment which seems to meet the needs of all parties concerned and we urge your support on this amendment.

SENATOR PRESTON: Senator Dupont, I'm sorry to bring this up at this late moment, but you're aware and as I am of receiving correspondence regarding a liability for appraisers. Is that addressed in this amendment?

SENATOR DUPONT: Senator, it is not specifically addressed, but in working with the bankers association, they felt that on their advice, banks could include as part of the loan origination papers, or with the appraisal or disclaimer, so that the customer would be aware that the appraisal was for lending purposes only and not for use in terms of determining market value on the property. That was a concern and they felt they could best take care of that through their process rather than putting that into legislation itself.

SENATOR PRESTON: So, in your opinion Senator, we've taken care of that concern that was raised by letter to you and myself?

SENATOR DUPONT: Yes, we have Senator.

AMENDMENT TO HB 777-FN

Amend the bill by replacing all after the enacting clause with the following:

1 New Subdivision; Real Estate Appraisals for Loan Applicants. Amend RSA 479 by inserting after section 29 the following new subdivision:

Real Estate Appraisals Conducted for Loan Applicants

479:30 Real Estate Appraisals. Whenever a person pays a fee to any bank, mortgage company or other lending institution for a real estate appraisal which is a component of his application for a loan, he shall have the right to receive from such bank or lending institution one copy of the original appraisal free of charge. The request for the copy shall be made in writing.

2 Applicability. The provisions of RSA 479:30 as inserted by section 1 of this act shall not affect any contracts between lending institutions and appraisal companies existing prior to the effective date of this act.

3 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill, as amended, requires banks and other lending institutions to provide, free of charge, one copy of an original real estate appraisal conducted by the bank and paid for by a loan applicant, when the loan applicant requests, in writing, a copy of the appraisal.

The provisions of this bill will not affect contracts between lending institutions and appraisal companies existing prior to the effective date of this bill.

Amendment adopted. Ordered to Third Reading.

HB 859-A, making an appropriation for the purchase of a building for the division for children and youth services. Ought to Pass. Senator Torr for the Committee.

SENATOR TORR: HB 859 appropriates \$625,000 to the purchase of a building as a residential facility for girls. The appropriation will be funded by bonds and notes. The building contains 7500 square feet of space, the cost per square foot is \$66.00. The facility will house 20

female youths who are chins or delinquent youths. No violent youths, drug abusers or property theft are involved with these persons. The committee recommends passage and it was a unanimous committee report.

Adopted. Referred to Finance (Rule #24).

HB 953-FN-A, relative to fire protection system for the vault in the state archives and making an appropriation therefor. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR: HB 953 appropriates \$11,000 to the division of records and management and archives. What it's doing is providing for the purchase of a halogen gas suppression system for the archives vault. Halogen gas smothers a fire, whereby if the use of water on any archives material would destroy them permanently. Therefore, we highly recommend this.

AMENDMENT TO HB 953-FN-A

Amend the bill by replacing section 3 with the following:

3 Effective Date. This act shall take effect upon its passage.

Amendment adopted. Referred to Finance (Rule #24)

HB 799-FN-A, relative to certain state publications and making an appropriation for their more efficient production. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: HB 799 came in to us as a bill, basically, to upgrade existing state equipment to allow for the automated transfer of certain legislative publications advance sheets, etc. Basically, it will eliminate a long wait between the time that we pass legislation and the advanced sheets are produced. Secondly, there would be a labor savings as a result of automating it, so the Committee on Finance thought that this made sense.

Adopted. Ordered to Third Reading.

HB 899-FN-A, allocating funds to the office of state planning to purchase computer equipment and making an appropriation therefor. Ought to Pass. Senator Torr for the Committee.

SENATOR TORR: HB 899 appropriates \$270,000 to the office of state planning for the purpose of purchasing computers to be used in the nine regional planning commissions. This would be used to up-

date master plans and interchange material useful to both the office of state planning and the regional planning commissions.

Adopted. Ordered to Third Reading.

HB 1042-FN, relative to road toll laws and the regional fuel tax agreement. Ought to Pass. Senator Torr for the Committee.

SENATOR TORR: HB 1042 provides technical changes in the road toll laws and regional fuel tax agreements. The fiscal impact is very minimal, revenue vs cost is negligible.

Adopted. Ordered to Third Reading.

HB 1146-FN-A, relative to abandoned property and making an appropriation to the state treasurer for purchase of a computer. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: Senate Finance received this bill because of the expenditure in the bill for the purchase of a computer system. After careful review by Senate Finance of the request by the State Treasurer, we determined that because of the vagueness of the request for the appropriation, that we at the present time had a difficult time approving the \$75,000 expenditure.

The amendment removes the expenditure and allows the statutes relative to abandoned property to be passed without the appropriation for the computer.

Amendment to HB 1146-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

relative to abandoned property.

Amend the bill by deleting section 7 and renumbering section 8 to read as7.

AMENDED ANALYSIS

This bill allows repair businesses to dispose of unclaimed property of \$500 or less, not including motor vehicles, after certain notice procedures.

The bill also allows police departments holding abandoned or unclaimed property to dispose of it in accordance with procedures established by the attorney general.

The bill also increases the time for compliance with escheat procedures under RSA 471-C:30.

Amendment adopted. Ordered to Third Reading.

HB 888, relative to the qualifications of the Director of Water Supply and Pollution Control. Inexpedient to Legislate. Senator Podles for the Committee.

SENATOR PODLES: HB 888 eliminates the existing professional requirement that the director of water supply and pollution control be a licensed sanitary engineer and a registered professional engineer. Instead, this bill would only require the director to hold a bachelor's level degree in engineering. The committee felt that it's a giant step backward and that the qualifications should be increased, if anything, and they recommend inexpedient to legislate.

SENATOR HOUNSELL: I rise in strong support of this recommendation and just would like to point out that as we're facing many bills and needs of pollution in this State that we need to have someone there that can have as many qualifications as possible. I agree wholeheartedly with Senator Podles, to pass this bill would, indeed, be a step backwards.

Adopted.

HB 911, relative to service of terminations notice on a manufactured housing park tenant. Ought to Pass. Senator St. Jean for the Committee.

SENATOR ST. JEAN: HB 911 deals with the way that individuals are evicted from trailer parks. Currently, you either have to give them the notification personally or leave a notice on the individual's trailer. All the testimony we heard, that sending it by mail, first class mail, would be a better way of dealing with this problem. Although it not something that comes up too often, we felt that this would be a better way of dealing with this matter.

Adopted. Ordered to Third Reading.

HB 1177-FN, relative to qualifying for the veterans' and elderly property tax exemptions and filing an inventory form and relative to naming a bridge for Korean and Vietnam era veterans. Ought to Pass. Senator Heath for the Committee.

SENATOR HEATH: This bill names an unnamed bridge in memorial of the Korean and Vietnam War veterans. The other section of

the bill forbids that when a town inventory is given, and that's now not mandatory, that the town send out property inventory. When they send it out, what they were doing, they were taking away veterans exemptions instead of going through the usual punitive measures of the percentage fine for not returning an inventory. This simply says that once a veteran is given his exemption it's for life-time and it has nothing to do with the proper filling, which has its own penalty, of these inventories and we urge you to pass it.

Adopted. Ordered to Third Reading.

HB 734, relative to posting of bond by administrators of estates. Ought to Pass with Amendment. Senator Johnson for the Committee.

Senator Johnson moved to pass over HB 734.

Adopted.

HB 865, enabling towns and village districts to hold special meetings for zoning ordinance amendments. Inexpedient to Legislate. Senator Heath for the Committee.

SENATOR HEATH: This is a bill, that if it would pass, it would cause all sorts of havoc in your towns. You would have zoning boards being able to call all sorts of meetings to pass zoning ordinances; it will cost the towns an awful lot of money, they can pass it at inconvenient times so the general population of the town, like between Christmas and New Year's, and so on and we felt that it would be a very dangerous precedent. It would cost the towns, in the long run, considerable and we urge you to defeat it.

SENATOR BLAISDELL: Senator Heath, would you believe that in all the years that I've been here that Representative David Perry from the House, who is as conservative as Senator Jack Chandler, came in and spoke to this bill and said that it was a good piece of legislation, and what you're saying is not true, that it's being misinterpreted. Would you like to respond to that, I don't see?

SENATOR HEATH: I've never known you to take absolute enmity out of the word of good conservatives like Senator Chandler and myself and I'm not sure the persuasion of Representative Perry. I don't know the gentlemen, but I'm glad that you're beginning to listen to conservatives. But, I think you're wrong and if he thinks that, he's wrong in this one. I don't know that this is a conservative vs liberal issue.

SENATOR WHITE: Senator Heath, I agree with you, but my question is how do you suppose it ever got past the municipal and county government? It's really a terrible piece of legislation.

SENATOR HEATH: I have no idea how it did, but it didn't get past our committee.

SENATOR WHITE: Was it on the consent calendar in the House?

SENATOR HEATH: I don't know, but I have a feeling that you're asking that question in a way that it may have been.

SENATOR HOUNSELL: I rise in support of the committee recommendation and I think what I'd like to do is point out a couple of things about the bill, regardless of who's sponsoring it and I did have a conversation with Mr. Perry and he's a fine gentleman. I believe the man's intentions are well founded. However, the language of the bill is what we're voting on, not on a person's good intentions. The language of the bill says at the option of the planning board with the consent of the board of selectmen or village district commission in the case of an amendment submitted by them, them being the board of selectmen, may call for a special town meeting. What this provides is if a planning board has a proposed change in the zoning ordinance, they would be able, by themselves, without checking with the superior court judge or with the selectmen, call for a special town meeting. Now, a lot of planning boards aren't elected, a lot of them are appointed. I think it's terribly bad precedents to allow for town meetings, something that is so special to New Hampshire, to be able to be decided by an appointed board at their pleasure. I don't know about whether or not some of these ordinances may be valid or there may be a need of them, I'm talking about the process and the process is what we're discussing here.

Another problem with this here is it requires that the ballots be open and the votes be cast for a one hour period. We just passed in this body and it passed the House and it was signed into law by the Governor, for uniform voting hours. I think it's a big step backwards if we now restrict the voting rights of the people, so that they will have to fit in to that one hour time frame that's left open for them by the planning board. It's not a reflection on anyone's intention, but it's a major step in how we conduct the business of government in the State of New Hampshire. I think that Senator Heath's report is accurate and I think we would be very wise and prudent to accept it. Thank you.

Adopted.

HB 929, to require health clubs to have one staff member trained in cardiopulmonary resuscitation techniques on duty during all operating hours. Inexpedient to Legislate. Senator Heath for the Committee.

SENATOR HEATH: We felt that, while this isn't a bad idea to have this kind of an individual on the staff, if we get in to mandating that kind of thing there's really virtually no end. You can mandate somebody know the Heimlich maneuver if they're in a restaurant. All good policy, but when are we going to stop nitpicking and mandating these little extras on the business. In this particular business, people are very conscious of liabilities, they have their customers sign affidavits and more than likely, in a health club situation, there is a person there that has this, but if we mandate it there we should perhaps mandate it on all businesses. It's a likeable idea, but it's not the role of government to place one more layer of difficulty in the small business situation.

SENATOR STEPHEN: I ask the Senate body if they would please recommit this bill for a courtesy of a constituent in my district and we'd like to look at this a little further.

SENATOR HEATH: Senator, with all due regard, can you explain to me what the problems are that your concerned with before we slow the process down. It seems like a simple, straightforward bill without complications. It mandates that you have a person trained and certified in CPR at the health clubs.

SENATOR STEPHEN: I guess, Senator Heath, what they are concerned about, it's a concern of life, of protecting someone's life.

SENATOR HEATH: What would prohibit any health club from having one more trained CPR people on their staff if they're interested in it?

SENATOR STEPHEN: I guess there's no law right now on the books, but you mentioned mandating people and I'm against mandating people. This directly concerns someone's life, and I think it's very important that we look at this a little differently.

SENATOR CHARBONNEAU: Would you believe, not only would it be the health clubs it will be the dance studios, the aerobic dance studios and so forth and so on, down the line, which are small busi-

ness people and would have to have someone on duty while they are teaching aerobic dancing and whatever?

SENATOR STEPHEN: I agree with you, Senator Charbonneau, but this stipulates just strictly, we're talking about health clubs and I think it's very important to maybe restrict it to that; that's why I've asked to recommit it.

SENATOR ST. JEAN: The reason that you want to recommit the bill is to answer Senator Charbonneau's question, is that not the case, Senator?

SENATOR STEPHEN: That's correct, Senator St. Jean.

SENATOR ST. JEAN: Which are legitimate concerns and that's why you want to bring it back to the committee?

SENATOR STEPHEN: That is correct, thank you.

SENATOR PRESTON: With all due respect to the work that the committees put in and everything, just last week we were gracious enough to consent to Senator Podles' request to recommit a very serious matter. Senator Stephen's isn't challenging the bill or any of the subject matter in the bill, it's a question of great concern to a constituent and as we gracefully consented to allow Senator Podles that, I urge your support in this one.

SENATOR CHANDLER: In response to Senator Stephen's request of a constituent who thinks it's a good idea to have a person there that can take care of a heart attack victim, it seems to me that if that person wants to have a person there to take care of it, why they can do it. There's nothing to prevent them. If they want to have one they can have one.

SENATOR JOHNSON: The sponsor of this bill came informally to several of the committee members, including myself and Senator Charbonneau, after this hearing and made some additional statements, so what Senator Charbonneau was referring to were not questions, Senator St. Jean, but rather reflecting the comments of the sponsor of this bill, indicating that it was really a very broad sweeping in its nature there. So, the sponsor himself made those comments there. However, I agree that if Senator Stephen's wants to recommit this bill I certainly would enter no objection and would concur with it.

SENATOR HEATH: Senator Preston, as you framed this in sort of between the pillars of senatorial courtesy, I'm wondering if I were to

fall prey to this line of argument if you would do me the courtesy of extending the same thing on something to do with doves that we've already worked on, in terms of recommitment?

SENATOR PRESTON: I would, but I am very suspect of your motive in this because I wanted to give people like yourself that had grave concerns, over the weekend and that's why I made the special order of business from Thursday and no one else approached me on this so, I wanted to move on to it today. That's the only reason, Senator, I would have given you the same courtesy.

SENATOR HEATH: Since you passed a dim light on my motives, would you mind explaining to me what you're suspect of in my motives?

SENATOR PRESTON: Well, I know your feelings on the mourning dove bill and you've expressed them publicly and privately. We debated them on the Senate floor and this is just a rehash of the same thing and time won't help you Senator.

SENATOR HEATH: Do you say this is a rehash of the same thing, you mean the bill we're on now?

SENATOR PRESTON: The mourning dove bill and the amendment is nothing like the Senate bill we passed to the House and time isn't on your side on this one, Senator, and neither are the votes.

SENATOR HEATH: I suspect it isn't.

SENATOR DUPONT: Senator Stephen, I was going to ask if a mourning dove was wounded and fell onto a health club, if the staff member would be required to apply CPR to the mourning dove but I won't. My question would be, if this bill basically dealt with requiring someone in your restaurant to know CPR as a requirement to your restaurant being open, if that would be something that would interest you?

SENATOR STEPHEN: I think it's not a bad idea, Senator, but a health club and a restaurant are two separate deals.

SENATOR DUPONT: Senator, how about the Heimlich maneuver, which is considered to be something that's critical. I mean, if we were to mandate that you were required to have somebody on staff at all times, I think we're talking about a principle here, not so much the necessity of the life saving benefit of both.

SENATOR STEPHEN: I agree with you to a certain extent Senator Dupont, and mandating people, especially small business's, to do something is different. But, again this is a health club and I think it's so important if we can protect someone's life, I think there's no issue. It's so important.

SENATOR BLAISDELL: I speak to the senatorial courtesy of Senator Stephens and I do so because I think that if we go any longer on this, we may need that staff member in the Senate on CPR, because some of us are beginning to choke on this one, so let's send it back.

Adopted.

Senator Blaisdell moved reconsideration on HB 929.

SENATOR HOUNSELL: Regardless of how one feels about the issue, I think that we all should have the opportunity to vote on a motion that a Senator would like us to have and I think it's a clear intention of Senator Stephen to have a vote on the recommit and I support the motion before us.

Motion adopted.

Senator Stephen moved to recommit HB 929.

Adopted.

HB 771, relative to the election of Hillsborough county commissioners. Inexpedient to Legislate. Senator Pressly for the Committee.

SENATOR PRESSLY: The committee unanimously recommended that this HB 771 be voted inexpedient to legislate. It is legislation that pertains only to Hillsborough county and only to the election of the county commissioners calling for a staggered terms. Although we appreciated the arguments given in favor of this, we felt that the negative side would cause confusion and that we felt that we should leave it up to the voters and that they know what they are doing. The committee report is inexpedient to legislate.

Senator Disnard moved to substitute Ought to Pass for the Committee Report.

SENATOR DISNARD: I realize that the committee is saying that there were not many people speaking in favor of this bill. However, this bill is important to the Hillsborough county commissioners. In fact, it was very important to the Sullivan county delegation until

they discussed it and felt they would wait for another time, as a courtesy for the Hillsborough county commissioners, who are having problems, the problems being that all new commissioners were appointed or elected and therefor there wasn't any continuity. All they're asking is for this to pass for their county to solve a problem in their county so that they can do away with these in the future. All our counties might have these problems in the future. What happens in a particular county if it were possible, through deaths or something else, to have all new county commissioners at the same time, without continuity. I think that could be a problem. So, out of courtesy to Hillsborough county, I move ought to pass.

SENATOR HEATH: The reason, I think, that our committee opposed this legislation, so we have a wonderful tradition with the exception with the United States Senators, in this State; we can change government entirely every two years. Now, we don't do that and I think it's some, in part, due to the satisfaction of the people that we don't throw everybody out every two years. But, we have that right and privilege. This bill would be inching away from that tradition. Now, obviously, a lot of us don't like running every two years, but that's the price that we pay, but we stay very closely in touch with our people by knowing that every two years they can throw us all out. I don't think you will find a situation, unless there's good cause for it, that in that county or any other county, the people will turn every single individual out all at once and I do somehow think that they could suffer along because the staff, which does most of the work at these counties, will be able to get them up to speed in a very short order. So, I don't think there's any endangerment and I would ask you to sustain the committee's position and the tradition that New Hampshire has long held.

SENATOR PRESSLY: I, too, rise in requesting that you defeat the motion of Senator Disnard. As a member of Hillsborough county, I certainly appreciate your interest in Hillsborough county. However, I don't believe it is the county from which you come. I did poll as many as I could, the Senators from this area, they all agreed that this would set a crazy precedent. If you apply the same philosophy, you would then have staggered voting on the executive council; we then should say that half of the room is a four year term, every other year, and this half of the room in the Senate; I mean the whole concept of staggering terms, if one were to apply it across government, I think would end in complete chaos and we think Hillsborough county can solve their problems in other ways. So, please support the committee report.

SENATOR DISNARD: Senator Pressly, the communities that have staggered elections for selectmen, staggered elections for city councilmen, staggered elections for school board members; there are many staggered elections. Do you say that they are all wrong?

SENATOR PRESSLY: I'm not saying that they are all wrong, but it doesn't seem appropriate in this situation.

Motion failed.

Question: Inexpedient to Legislate.

Adopted.

HB 982, relative to vehicles impeding the flow of traffic. Inexpedient to Legislate. Senator Johnson for the Committee.

SENATOR JOHNSON: This bill seeks to make it unlawful for a driver on a two lane highway to drive slower than a "reasonable speed" unless the driver turns off at the "nearest safe place". According to the testimony, this bill is an attempt to legislate courtesy, but the bill has a number of problems. First, the bill infers that you are driving too slow when four or more vehicles are following in line, but it does not define "slower than a reasonable speed". Second problem, the bill is unclear as to what is a "sufficient shoulder area for a safe turnout". Today, in New Hampshire, we have more and more drivers in more and more of a hurry on New Hampshire roads that were not built for speed. The committee felt that this bill would place an inappropriate burden on those drivers, particularly senior citizens, to speed up or get out of the way. This bill lacks clear definitions and is probably unenforceable as written. The committee recommends inexpedient to legislate.

Adopted.

HB 1044, relative to the minimum age for operating a power boat in the state. Ought to Pass. Senator Heath for the Committee.

SENATOR HEATH: The reason that we felt that this should pass is we have sort of a two tier level of responsibility in various things that we do in this State. 16 is the kick-in age for a hunting license, for a driving license and we thought for driving boats with 30 horsepower plus motors, that this would be keeping in conformity to that as opposed to 15, which is a sort of an odd decision. It's arbitrary, there are 16 year olds who are responsible and 35 and 45 year olds

who are irresponsible. But, we make this arbitrary decision at the level of 16 in most things and we thought that this would conform to that and it does not disallow the use of motors by younger children, simply over 30 horsepower.

SENATOR DISNARD: You mentioned 30, the bill says 25. Should it be 30?

SENATOR HEATH: Is it 25? Then it is my mistake. Whatever the bill says is correct, but it does not outlaw all outboards, just from that horsepower up.

Adopted. Ordered to Third Reading.

HB 1134-FN, relative to walking disability motor vehicle plates, cards, and parking privileges. Ought to Pass with Amendment. Senator Johnson for the Committee.

SENATOR JOHNSON: Let me speak first to the amendment. The amendment removes the option of a decal in regard to walking disabilities in addition to the plates and the cards. The Department of Safety testified that the decal option is not needed and places an administrative burden on the department, for the few people who would use it. In addition, Mike Jenkins from the Governor's Committee for the Handicapped also opposed the use of decals. HB 1134 is the result of the work of a committee assigned the task of reviewing the motor vehicle statutes governing people with walking disabilities. This bill is intended to tighten up and provide clarity to these statutes and correct the abuses that have been occurring in the past. Here's what the bill does. First, it gives a new definition to walking disability. Secondly, it provides that an eligible person can obtain a special plate or a window card or both. Third, an organization, principally involved in transporting walking disabled persons, is also eligible for either a plate and/or a card. Fourth, a walking disabled person can get a window card whether or not a person owns a car or drives a car. Fifth, the bill corrects previous abuses by requiring the eligible person to be in the vehicle when the parking privilege, provided by this bill, is being exercised. The committee recommends ought to pass with the amendment.

SENATOR PRESTON: I want to thank Senator Johnson for being kind enough to share those Transportation hearings. That day there were other bills in Senator Hounsell's committee having to do with environmental matters. However, when I went downstairs to execute these bills there was some confusion and there was a vote, I think it

was 3 to 1, the majority of the committee wanted to do away with the decals that are now being used. The amendment that you will see, that full page amendment, does nothing more than remove decals. Frankly, there are a few people that use them and very frankly, there's a State Representative and a former State Senator who have been using them for years. In this one instance, it would be punitive. The decals hurt no one. The Department of Safety really thinks they're a bother, I guess; they're talking about administration cost and so forth. We had asked them to issue them last year and people could ask for them and they weren't even made available. In some of the areas, the registries in Troup A area, weren't even aware of the decals. I respectfully request that you vote against the amendment. It's not done with malice by Senator Johnson or the other couple of Senators; it's a question of making something available to the handicapped, how few they may be, but they've had it for a long time. So, let's not disenfranchise them of this privilege. In one case, it would mean this one person giving up a plate that she's had for years and years, to which she's affixed a decal. Some people may be disabled and they don't want to advertise with a large plate, as this lady explained to me, I have a plaque card in the window. The amendment, by voting against the amendment, we would be voting for the bill as it came from the House that would allow decals and I respectfully request that you do that.

SENATOR DUPONT: Senator Preston, I'm a little bit confused, I guess, and I need to have you clarify it. The person that would have to give up their plate in order to get handicap plates, isn't there another alternative for that person, such as getting a plaque that they could stick on their dash board?

SENATOR PRESTON: That's true. And she doesn't like to do that and as handicapped as this person may be, you know, she wanted to play on a level playing field based on her abilities and did not care to put a big sign in her window, as she explained it to me, that said, hey, I'm handicapped. She's satisfied with the small decal.

SENATOR DUPONT: But, isn't the whole purpose of the plaque or the decal to allow them to park in the handicap parking spaces without worrying about getting ticketed for being in there?

SENATOR PRESTON: That's part of it Senator.

SENATOR DUPONT: So, the plaque and the decal would serve the same purpose.

SENATOR PRESTON: She's able to do that with the very small decal.

SENATOR HEATH: The thing with this bill is this, we have a national uniform code that the states are trying to adopt so that when a handicap person is in another state they don't get fined. You drive to Massachusetts and you use a decal and you park in a handicapped spot you're fined. They don't recognize it. No other state recognizes the decals. The Governor's Council for the Handicap supports it, the highway department of the director of safety supports it because he has problems. Those decals get out there and they get used forever, long after the person is deceased and their spouse is using the automobile or the handicap has gone away and those are still out there forever and a day. But, to speak more directly to what Senator Preston brought in to the argument, this person has a handicap but they don't want to advertise it in neon lights. I can understand that, but you're doing a disservice to the handicapped if you make that decal so small, as opposed to the plaque in the back window, that the average person drives by and they see somebody using one of those and they can't spot that they're handicapped and then they say, if they're going to then I'm going to because I'm tired of having to walk across that parking lot when other people are abusing this. The plaque works, they can keep their vanity plates, put the plaque in the window and the truth is, the couple of individuals who want to put their vanity plates don't want, although the safety offered it to them, to print the vanity plate with the handicap shield on it, didn't want that, they can have the plate. It doesn't hurt the handicap plate, doesn't hurt the vanity plate, they can have it. They can have it both ways, but let's go with the uniform code so that handicap people from New Hampshire aren't hurt if they go out of State and let's cut down, for two people I just can not see changing the system and hurting some of the other handicap people by agitating towards non-handicapped people using those spaces just as they're becoming conscious of the intent of those spaces and the seriousness with which we're trying to enforce it.

SENATOR NELSON: Senator Heath, do the decals presently have the uniform code symbol on them or is it some different symbol?

SENATOR HEATH: I believe they have the same symbol, but they are not recognized in the uniform code and they are not recognized in other states. So, it doesn't matter; it'd be the same as me putting one on my front lawn on a poster, it would not be recognized.

SENATOR NELSON: Who decides what states should or shouldn't do and what kind of input has the State of New Hampshire had in to this?

SENATOR HEATH: Each state decides what it should do, obviously, but by having a uniform code you enable your people in your state, should you support that uniform code along with the majority of other states, to know the law and to be respected by the law in other states. That's the purpose of uniform codes and it works very well and particularly well in this one where a person with a decal, one of the opponents who wants to keep the decal, an opponent to my position on this, can self-testify that he got fined in Massachusetts on basis of his decal. Now, to preserve his interest in vanity plate, are we going to have the rest of our handicap people have a method that they don't know when they get to Massachusetts, they're going to end up with a fine, parking in a handicapped spot, to which they should be legitimately entitled and would, with a placard, be legitimately entitled.

SENATOR NELSON: Senator Heath, how many handicapped people came in and supported the decal or were against the decal position and in favor of the placards?

SENATOR HEATH: The Governor's Council on the Handicapped supported it. I don't know how many you need but that represents all the handicapped people in the State, by and large.

SENATOR NELSON: You talked about abuse of the decals. I ask you, with a plaque card, how are you going to prevent abuse. If you say they can abuse a decal, why is not possible to abuse the plaque card, because is it not the same process that one goes to to apply for the two of them.

SENATOR HEATH: The plaque card has an expiration date and can be coded in various manners and could be checked against violations.

SENATOR WHITE: Having just spoken with our esteemed colleague, Representative Bill Bushy, he supports the committee report and I believe that he is one of the handicapped amongst us and I go along with his recommendation.

Senator Preston called for a division vote.

9 Yeas

14 Nays

Amendment failed.

Question: Ought to Pass.

Adopted. Ordered to Third Reading.

HB 734, relative to posting of bond by administrators of estates. Ought to Pass with Amendment. Senator Johnson for the Committee.

Senator Johnson moved to lay HB 734 on the table.

Adopted.

ANNOUNCEMENTS

SPECIAL ORDER

1:01 p.m.

HB 816, prohibiting the hunting of mourning doves in New Hampshire. Ought to Pass with Amendment. Senator Preston for the Committee.

SENATOR PRESTON: HB 816 and the amendment that we have before you, is simply putting the Senate bill on, as it pertains to the prohibiting the hunting doves in New Hampshire. We've taken the whole Senate bill to replace the House bill before us and the difference in the House bill and the Senate version was that it took the mourning doves off the migratory bird list. We just said, in the Senate version of the bill as Senator Stephen so eloquently explained previously, said no hunting of mourning doves in the State of New Hampshire and that's the message that the Senate wished to convey to the House.

Senator Dupont moved to recommit HB 816 to committee.

SENATOR DUPONT: A member of the Senate has requested, from me, that I ask the privilege of the Senate in recommitting this bill for the purposes of additional work on this bill. Basically, the Senator feels that he has an amendment that would be appropriate for this bill and would like to discuss it with the committee. Being the Majority Leader and the individual requesting this a member of the majority, I felt it appropriate for me to come forward at this time and request of the Senate that this bill be recommitted.

SENATOR STEPHEN: I'd like to also extend all the courtesy that we could here in the Senate, but this bill was before us once before and we discussed the amendment on prohibiting the hunting of

mourning doves. I would like the Senate to consider it as we did before and pass this bill with the amendment and send it back to the House.

SENATOR HOUNSELL: Senator Stephen, I'm confused. I support what we did with the morning doves, but just a few minutes ago you were asking for courtesy and I heard you say, "ya, but". Isn't it appropriate that what's good for the goose, or in this case the dove, is good for the doves and shouldn't we really extend this courtesy to Senator Dupont as he's requested?

SENATOR STEPHEN: Senator Hounsell, what I said is that we heard this bill before so, what is the reason for keeping it and listening to it? Senatorial courtesy isn't going to gain us any more. All we're doing is sending it back to the House with the amendment that we heard before.

SENATOR DUPONT: I rise, obviously, in support of my motion to recommit. A little earlier we heard a bill and discussed a bill that dealt with requiring mandating that health club owners have someone on the premise and present operations, and requiring them to have someone knowledgeable in CPR and it seemed appropriate at that point in time and important enough to members of the Senate, at that point in time, to recommit that bill. I have, at this point in time, a member of the Senate that has the same strong feelings about this particular bill and it is only a courtesy that we allow this bill to be recommitted.

SENATOR HOUNSELL: I rise, not only in support of the amendment, but I rise in support of the motion. I think that any time a Senator wants to work on a piece of legislation and is willing to request a courtesy that it is only appropriate for us to abide by that. If there is something that someone wants to discuss about this bill, I'm happy to support recommitment at this time.

SENATOR STEPHEN: I would also like to extend the courtesy to Senator Dupont, the esteemed Majority Leader, and offer him that recommitment and I'm hopeful that we do not hurt these poor innocent birds in the long run.

SENATOR HOUGH: Nothing makes my heart feel better than to see all the courtesy that's being extended here today and I can well respect all the work that our colleagues are going to do on these pieces of legislation. But, I would caution you that come the 14th day

of April there will be a tremendous amount of courtesy and there'll be also a tremendous amount of work because we're going to have a table with a lot of bills on it.

Adopted.

Senator Blaisdell moved to waive reference to Finance Committee regarding HB 859-A and HB 953-FN-A.

Adopted.

HB 859-A, making an appropriation for the purchase of a building for the division for children and youth services.

Ordered to Third Reading.

HB 953-FN-A, relative to fire protection system for the vault in the state archives and making an appropriation therefor.

Ordered to Third Reading.

COMMITTEE OF CONFERENCE REPORT ON HB 480

The committee of conference to which was referred House Bill 480, An Act recodifying the county corrections laws having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 106-B:14, I as inserted by section 14 of the bill by replacing it with the following:

I. With the approval of the commissioner of safety, the director shall adopt rules under RSA 541-A as may be necessary to secure records and other information relative to persons who have been convicted of a felony or an attempt to commit a felony within the state, or who are known to be habitual criminals, or who have been placed under arrest in criminal proceedings. Such records and information shall not be open to the inspection of any person except those who may be authorized to inspect the same by the director. The clerks of the superior and municipal courts, or if there is no clerk the justice thereof, sheriffs, deputy sheriffs, police officers, [jailers,] and superintendents of [houses of correction] the county departments of

corrections shall secure and forward to the director all such information as he may direct relative to persons brought before said courts or arrested or in the custody of such officers. Any person violating the provisions of this section or any rules adopted under RSA 541-A shall be guilty of a violation, for each offense.

Amend RSA 623:1, I as inserted by section 25 of the bill by replacing it with the following:

I. Any person confined in a county [jail, house of correction] department of corrections facility, state prison or other place of detention may, under necessary precautions, be taken by some regular or specially authorized officer from such place of detention to a medical facility for the purpose of receiving medical examination or treatment upon recommendation of a physician and upon approval of the administrator of the institution in which the person is confined. In the case of a transfer for medical purposes for a period in excess of 24 hours, the justice of the court who originally ordered the prisoner's commitment shall be given written notice of the transfer within 5 days of said transfer, and shall be given notice upon the return of the prisoner within 5 days of the prisoner's return. The provisions of RSA 402:79 shall apply to payments for medical care provided pursuant to this section.

Amend section 17 of the bill by replacing it with the following:

17 Cross Reference; Delinquent Children. Amend the unnumbered paragraph following paragraph VIII of RSA 169-B:24 to read as follows:

The minor is entitled to the assistance of counsel, who shall have access to said court records, probation reports or other agency reports. If the court orders transfer to superior court, it shall provide a written statement of findings and reasons for such transfer to the minor. Cases so certified and accepted by the superior court may be disposed of by the superior court according to the laws of this state relating thereto without any limitations as to sentence or orders required by this chapter. All original papers in transferred cases shall remain in the court from which transferred and certified copies of the same shall be filed with and shall constitute the records of the court to which transfer is made. Pending disposition by the superior court, a juvenile whose case is thus transferred and accepted by the superior court may be placed under the supervision of the juvenile services officer or required to recognize with sufficient sureties, or in default thereof, be detained at a county [jail, house of correction

or state prison] correctional facility to await disposition of the case in said superior court; provided, however, once a minor is certified for trial as an adult and his case is transferred to the superior court, detention at the youth development center is prohibited.

Amend RSA 169-B:25 as inserted by section 18 of the bill by replacing it with the following:

169-B:25 Petition by County Attorney. If facts are presented to the county attorney establishing that a person under the age of 18 has been guilty of conduct which constitutes a felony or would amount to a felony in the case of an adult and if such person is not within the jurisdiction of this state, the county attorney may file a petition with the judge of the municipal or district court which would otherwise have jurisdiction under the provisions of this chapter. The petition shall set forth the nature of the offense with which the person is charged and shall specify his whereabouts if known. On receipt of such petition, the court may summarily authorize the county attorney to proceed against such person under regular criminal procedures, and without regard to the provisions of this chapter. Pending determination by the superior court as herein provided and pending final disposition of the matter, such persons shall be bailable with sufficient sureties as in the case of adults and, in default thereof, may be committed to the custody of the juvenile services officer or detained at [the county jail or house of correction] a county correctional facility unless detention elsewhere is ordered by the superior court. The superior court shall determine, after hearing, whether such person shall be treated as a juvenile under the provisions of this section or whether the case shall be disposed of according to regular criminal procedures.

Amend the bill by replacing all after section 32 with the following:

33 Nonpayment of Fines; Place of Committal. Amend RSA 618:6 to read as follows:

618:6 Place of Committal. Any person sentenced to pay a fine shall be ordered to be imprisoned until sentence is performed, or he is otherwise legally discharged, in any [house of correction or jail] county correctional facility at the discretion of the court. This section shall not be construed as authorizing the confinement of any juvenile under the age of 17 years in a [house of correction or jail] county correctional facility for the nonpayment of a fine.

34 Nonpayment of Fines; Writ of Execution. Amend RSA 618:7 to read as follows:

618:7 Execution. A writ of execution may be issued for any fine in a criminal case, notwithstanding the respondent may be committed or detained in [jail] a county correctional facility for nonpayment thereof, and if the fine is collected upon the execution, the convict shall not be further detained on account thereof.

35 Nonpayment of Fines; Term of Committal. Amend RSA 618:9 to read as follows:

618:9 Committal for Nonpayment; Term. Whenever a person is committed to [jail or to a house of correction] a county correctional facility in default of payment of a fine imposed by a justice of a municipal court or a district court, he shall be discharged from custody by the [keeper] superintendent thereof at the expiration of a number of days after the date of his commitment equal to one day for each \$20 of the fine so imposed. The [keeper] superintendent shall keep a record of all discharges made under the provisions of this section.

36 Nonpayment of Fines; Petition for Discharge. Amend RSA 618:10 to read as follows:

618:10 Petition for Discharge. Whenever a person under conviction for a criminal offense and confined in [jail] a county correctional facility is unable to pay the fine, the superior court, upon petition of the prisoner or the county commissioners and satisfactory proof of such inability, may order the prisoner to be discharged upon such terms as they may think proper.

37 Repeal. The following are repealed:

I. RSA 619, relative to common jails and prisoners of common jails.

II. RSA 620, relative to houses of correction.

38 Purpose and Explanation. The purpose of this act is to recodify in a comprehensive manner existing county correctional laws which are presently scattered throughout the Revised Statutes Annotated. This recodification makes no substantive changes in the present laws and requires no additional funding on the state, county, or local level. This recodification deletes and updates certain archaic language and repeals obsolete sections of the law.

39 Effective Date. This act shall take effect 60 days after its passage.

*Conferees on the Part
of the Senate*

Sen. White, Dist. 11

Sen. Heath, Dist. 3

Sen. Nelson, Dist. 13

Rep. Dykstra, Hills. 39

*Conferees on the Part
of the House*

Rep. Barnes, Rock. 6

Rep. King, Rock. 4

Rep. Gage, Rock. 13

Senator White moved to adopt the Committee of Conference Report.

Adopted.

Senator Dupont moved to recall from the Governor HB 330, relative to an exception to the real estate transfer tax.

Adopted.

ENROLLED BILLS REPORT

HB 571, relative to the certification and financial management of life care facilities and making an appropriation therefor.

HB 732, relative to the workers' compensation special fund.

HB 789, relative to assessment of civil penalties under the workers' compensation law.

HB 849, relative to claims against the state.

HB 867, relative to bonding authority for the Conway village fire district.

HB 870, relative to a surety bonds for county treasurers and other county officers, and relative to the administration of RSA 78-B by the commissioner of revenue administration.

HB 936, relative to discoverability of risk in product liability actions.

HB 999, granting authority to the commissioner of environmental services to levy administrative fines for certain violations, and authorizing the director, division of water supply and pollution control, to take certain emergency actions.

HB 1007, relative to the date when municipalities must make tax payments to counties.

HB 1036, relative to motor vehicle inspections.

RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same

as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, March 24, 1988 at 1:00 p.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 777-FN, relative to real estate appraisals conducted by banks and other lending institutions for loan applicants.

HB 799-FN-A, relative to certain state publications and making an appropriation for their more efficient production.

HB 899-FN-A, allocating funds to the office of state planning to purchase computer equipment and making an appropriation therefor.

HB 1042-FN, relative to road toll laws and the regional fuel tax agreement.

HB 1146-FN-A, relative to abandoned property.

HB 911, relative to service of terminations notice on a manufactured housing park tenant.

HB 1177-FN, relative to qualifying for the veterans' and elderly property tax exemptions and filing an inventory form and relative to naming a bridge for Korean and Vietnam era veterans.

HB 1044, relative to the minimum age for operating a power boat in the state.

HB 1134-FN, relative to walking disability motor vehicle plates, cards, and parking privileges.

HB 859-A, making an appropriation for the purchase of a building for the division for children and youth services.

HB 953-FN-A, relative to fire protection system for the vault in the state archives and making an appropriation therefor.

Senator Krasker moved reconsideration on HB 1134, relative to walking disability motor vehicle plates, cards, and parking privileges.

Motion failed.

Senator Dupont moved that the Senate now adjourn.
Adopted.

Adjournment.

Thursday, March 24, 1988

The Senate met at 1:00 p.m.
A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, help us to understand what we are - how we are and what we are to become! The weakness of our human nature is vividly expressed in the Palm Sunday Drama! The triumphant entry of our Lord into the Holy City - amidst the cheers of the populace - was later turned to sorrow through His arrest and crucifixion! Lord, have mercy upon us.

Amen

Senator Pressly led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

HOUSE MESSAGE

HOUSE REQUESTS CONCURRENCE

HB 971, relative to unclassified state employees salaries.

Senator Dupont moved that the joint rules be suspended to allow HB 971 in after the deadline.

Motion Lost. (2/3rds vote required)

HB 1064-FN, to include probation and parole officers in group II of the New Hampshire retirement system.

Senator Dupont moved that the joint rules be suspended to allow HB 1064-FN in after the deadline.

Motion Lost. (2/3rds vote required)

HB 645-FN, relative to school building aid.

Senator Dupont moved that the joint rules be suspended to allow HB 645-FN in after the deadline.

Motion Lost. (2/3rds vote required)

Senators Johnson and Charbonneau wished to be recorded as in favor of suspending the rules.

HB 970-FN, establishing a fee for the review of certain project plans by the division of water supply and pollution control.

Senator Dupont moved that the joint rules be suspended to allow HB 970-FN in after the deadline.

Motion Lost. (2/3rds vote required)

HB 1049-FN, relative to the travel allowance for members of the General Court.

Senator Dupont moved that the joint rules be suspended to allow HB 1049-FN in after the deadline.

Motion Lost. (2/3rds vote required)

INTRODUCTION OF HOUSE BILLS

Approved for introduction by the Joint Rules Committee.

First and Second Reading and Referral

HB 1204-FN-A, establishing a grant-in-aid program to be administered by the division of mental health and developmental services, department of health and human services, to provide temporary emergency shelter for the destitute and making an appropriation therefor, and establishing the affordable housing fund within the New Hampshire housing finance authority and making an appropriation therefor. (Internal Affairs)

COMMITTEE REPORTS

HB 955-FN, relative to Interstate Banking. Inexpedient to Legislate. Senator Dupont for the Committee.

SENATOR DUPONT: HB 955 basically provided for the development of rules for the interstate banking law that we passed last session. The banking commissioner came in and spoke very strongly against this bill. He felt that the existing provisions that allow him to

develop rules have worked adequately and felt that this was more of a political issue than one that needed to be dealt with by the legislature. So, the committee found this bill inexpedient to legislate and urges you to vote accordingly.

Adopted.

HB 790-FN, relative to the public investments study committee. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: HB 790-FN is a bill that extends the time period for the public investment study committee to work. Senator Heath is presently a member of that committee. The bill, as amended, not only extends the committee but also adds one additional member from the New Hampshire Bankers Association and also sets up a study to be done of the municipal collateral pool for the purpose of insuring public investments at the local level. It's our recommendation that the bill ought to pass as amended.

AMENDMENT TO HB 790-FN

Amend the bill by replacing section 2 with the following:

2 New Paragraphs; Duties Focused. Amend 1987, 55:3 by inserting after paragraph III the following new paragraphs:

IV. Examine the possibility of establishing a state-wide collateral pool for the purpose of ensuring the safety of public investments held by financial institutions in this state in the event of default or other misfortune. This study shall include, but shall not be limited to, consideration of which type of collateral pool arrangement would best suit New Hampshire's banking system; recommendations as to the implementation and maintenance of such an arrangement; and proposals, if any, for legislation to establish a collateral pool program in New Hampshire.

V. Examine the possibility of establishing a state-wide investment pool as a way of offering local governments the advantages of pooling their resources, such as the superior yields which may be obtained from the investment of larger amounts of capital.

AMENDED ANALYSIS

This bill widens the focus of the public investments study committee to include the examination of a state-wide collateral pool and a state-wide investment pool.

The committee's reporting date is changed by this bill to December 1, 1988, and the tenure of the committee is extended to December 31, 1988.

The bill, as amended, also adds a member from the New Hampshire Bankers' Association to the committee.

Amendment adopted. Ordered to Third Reading.

HB 1093-FN, relative to reporting requirements of corporations having securities registered in this state. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: At first glance, 1093 may look like a loosening of the requirements for corporations that have registered securities in the state, but in effect, what it really does is take care of a technical problem that we created when we amended the securities law last year to tighten up procedures. What basically has happened is, because of the requirement of approval of financial statements, they are now so far backed up in getting these financial statements to the Secretary of State that they are in effect providing less security for the public. So, Secretary of State Bill Gardner came in with this amendment and it merely clarifies and streamlines the position that they presently take on the audits and provides a little bit more protection in that they won't have the backlog of unchecked audits.

AMENDMENT TO HB 1093-FN

Amend the introductory paragraph of RSA 293-A:132, I as inserted by section 2 of the bill by replacing it with the following:

I. Each domestic corporation and each foreign corporation authorized to transact business in this state, except [foreign nonprofit corporations registered under RSA 292:5-b, public utility or other] corporations making [annual] returns to [the public utilities commission, or] the insurance commissioner and holders of certificates of approval under RSA 181:26, shall file within the time prescribed by this chapter an annual report setting forth:

AMENDED ANALYSIS

This bill deletes the requirement that the director of the office of securities regulation certify to the secretary of state the annual financial statements of corporations with securities registered in this state, before the secretary of state may accept such corporation's annual report.

The bill, as amended, removes an exemption from filing annual reports with the secretary of state for foreign nonprofit corporations and public utilities or other corporations making annual returns to the public utilities commission.

Amendment adopted. Ordered to Third Reading.

HB 1016-FN, relative to municipal borrowing due to certain bankruptcies. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: HB 1016 came in directly as the result of the bankruptcy of Public Service of New Hampshire. Under existing law, communities can borrow in anticipation of receipt of taxes; however it merely allows for short term borrowing. Under this bill that you have in front of you, those communities that have more than 5% of their tax base tied up with one particular entity, whether that be Public Service or another company, it will allow them to go out and borrow in anticipation of receipt of those tax monies when the company either comes out of bankruptcy or when the bankruptcy court allows payment. At the present time, there are approximately twenty-two million dollars in tax revenues that are paid to local communities by Public Service. The extent of the problem even goes beyond the big generating communities that have facilities of Public Service that generate electricity and, I believe that there are roughly 20 communities that have more than 5% of their tax base tied up by those taxes not paid.

SENATOR JOHNSON: I rise in support of this bill. I think that it's essential that we pass that. We have a number of communities that have been placed in financial jeopardy as a result of the Chapter 11, Public Service bankruptcy and this is a bill that will allow them to, at least in part, get out of that jeopardy and the bill should be passed.

SENATOR KRASKER: Two of the communities which will be aided by this bill are Portsmouth and Newington, two of the towns in my district and I would thank the Senate very much for their prompt action.

AMENDMENT TO HB 1016-FN

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect upon its passage.

Amendment adopted. Ordered to Third Reading.

HB 537-FN, relative to regulation of the practice of nursing. Ought to Pass with Amendment. Senator Bond for the Committee.

SENATOR BOND: The bill changes the name of the board of nursing education and nurse registration to the board of nursing. The board continues its present functions related to licensing, examination, standards of practice, approval of nursing education programs and establishing education and the experience requirements for nursing. The bill gives the board new authority to seek injunctive relief against unlicensed practitioners. It provides immunity from civil suit to those reporting violations to the board.

On page 8 of your calendar you will find an amendment contrary to anything you may have been lobbied; otherwise that amendment only deals with two things. On page three of the bill it removes the words, "or licensed practical nurse" and on page ten of the bill, it changes a reference from 'e' to 'd'. The committee urges your support.

SENATOR WHITE: Senator Bond, during your discussions was this an agreed amendment?

SENATOR BOND: This was an amendment that came as a result of the earlier hearings on the bill.

SENATOR WHITE: Was anything, at that time, brought up about medication specialists?

SENATOR BOND: We had a very productive work session in which we discussed medication specialists and programs offered by the postsecondary education commission.

SENATOR MCLANE: I would just like to commend a group of very professional women for a job well done. If you look at the size of the bill, you'll see that there has been a great deal of work and effort that has gone into this bill. I feel that they have conducted themselves in a professional manner and that this is worthwhile legislation.

AMENDMENT TO HB 537-FN

Amend RSA 326-B:2, XI as inserted by section 2 of the bill by replacing it with the following:

XI. "Graduate nurse" or "G.N." means any person from an approved program of nursing education practicing under graduate status while awaiting licensure as a registered nurse.

Amend RSA 326-B:4-a, VII as inserted by section 5 of the bill by replacing it with the following:

VII. Establishing all fees required under RSA 326-B:6, IV; RSA 326-B:7, I(e); RSA 326-B:8, II and V; RSA 326-B:10, I(d); and RSA 326-B:10, III.

Amendment adopted. Ordered to Third Reading.

HB 1072-FN-A, appropriating funds to the Department of Environmental Services for a water supply study. Ought to Pass with Amendment. Senator Preston for the Committee.

SENATOR PRESTON: The purpose of this bill is to initially appropriate \$15,000 to the department of environmental services to participate on a public/private comprehensive water study of Southern New Hampshire for the safe, economical and abundant water supply which is a critical resource in our area. This is really unique; it's been requested by the public utilities commission. But, interestingly enough, the various private water companies, Penechuck, Manchester Water Works, Southern New Hampshire Water Works, Hampton Water Works, the BIA, Strafford County, they all participated from five to twenty thousand dollars to participate with the State. It's a very unique bill, a unique approach with everyone participating and I urge its passage.

AMENDMENT TO HB 1072-FN-A

Amend section 1 of the bill by replacing it with the following:

1 Appropriation. There is appropriated to the department of environmental services the sum of \$25,000 for the fiscal year ending June 30, 1988, for the purpose of making a grant to fund a water supply study to the Water Supply Task Force, a public-private coalition formed to conduct such study. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

AMENDED ANALYSIS

The bill, as amended, appropriates \$25,000 to the department of environmental services with which to make a grant to a public-private coalition, the Water Supply Task Force, to complete a study of the state's water supply.

Amendment adopted. Referred to Finance (Rule #24)

HB 843-FN-A, appropriating funds for the northeast Rural Water Association for equipment, technical assistance and training to rural water systems. Ought to Pass. Senator McLane for the Committee.

SENATOR MCLANE: This bill passed unanimously in the committee in the House and was on the consent calendar. It involves the rural northeast water association, a three state association, and Vermont and Massachusetts have already passed similar bills. It calls for a \$27,000 appropriation to use to purchase equipment to loan to rural communities to teach them about how to fix chlorinators, use chlorinators and lead detection equipment.

Adopted. Referred to Finance (Rule #24).

HB 1090-FN, relative to drugging animals in livestock events and relative to audits on agriculture fairs. Ought to Pass. Senator Preston for the Committee.

SENATOR PRESTON: We passed a bill last year and the department of agriculture was in to make several amendments to that piece of legislation. It essentially makes four changes. It allows for administrative fines for those that do not test the animals that are used at the fairs for, as an example, a horse pulling contest. It states the violators would loose the right to show their animals. If an offense similar to this prohibited in New Hampshire was committed in another state, they would be prohibited from showing for up to two years in New Hampshire. Lastly, it allows the fair association to use independent auditors, as the department of revenue administration has been short-handed, and the fair association to have their accountants to make their reports to the State.

Adopted. Ordered to Third Reading.

HB 855-FN, relative to timber sales on fish and game department land. Inexpedient to Legislate. Senator Preston for the Committee.

SENATOR PRESTON: This bill simply authorizes the executive director of the fish and game to establish a nonlapsing revolving fund to be expended. We did not consider it that necessary and we respectfully request you support the committee report, inexpedient to legislate.

Adopted.

HB 923, relative to dredging on great ponds. Ought to Pass. Senator McLane for the Committee.

SENATOR MCLANE: I am so upset at the thought that Senator Hough might take a rule 44 over my last speech that I barely dare to get up and speak again. But, while I'm up here I would like to apologize to Stanley and the other male nurses for my feminist speech about the nursing bill and I stand corrected by the Senator from the 23rd district.

Now, as to the dredging of great ponds. This bill was requested by the water resources board. It clarifies the responsibilities of the Wetlands Board and makes sure that any project that is considered by them, which is perhaps a two part project, that if either part of the project is a major project it will be considered under those rules within the Wetlands Board. It is needed legislation.

Adopted. Ordered to Third Reading.

HB 801-FN, relative to the composition of the dental board. Interim Study. Senator Stephen for the Committee.

SENATOR STEPHEN: We sent this bill to interim study in hopes that the dentist and dental hygienist can develop some kind of an agreement. We hope that they can study this and come out with some resolution.

SENATOR NELSON: How many dentists are on the dental board and how many hygienists on that board?

SENATOR STEPHEN: I believe we have five dentists, one hygienist and one lay person.

SENATOR NELSON: Senator Stephen, where did the objection to this bill come from? Any of the people out in New Hampshire or wherever; this didn't come out ought to pass. Was there a great hue and cry from the people of the state against this?

SENATOR STEPHEN: I think it was that the dentists figured that the board has been working and the old story — if it ain't broke, don't fix it.

Adopted.

HB 755, relative to the Goffstown police department. Ought to Pass. Senator Stephen for the Committee.

SENATOR STEPHEN: HB 755 relative to the Goffstown police department. This bill was recommended ought to pass. It deals with a now outdated session law which should be removed from the books.

Both the Goffstown representatives, as well as the Chief of Police, testified in favor of this bill. The subjects that were covered by the session law are now covered by the Police Standards and Training Counsel.

Adopted. Ordered to Third Reading.

HB 766, relative to utility easements. Ought to Pass. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: HB 766 exempts the granting of an easement and gross to public utilities from the term subdivision for certain various specific purposes. It is the intention of the bill not to subdivide land for any other new purpose, but rather to acquire the rights to that land so that the utility company can place a component of their distribution system to serve customers in a given area of a community. This bill circumvents the necessity of going to the planning board and, by saving time and money, will enable them to service customers in a more timely manner. The legislation has the support of the New Hampshire Municipal Association as has been described in the legislative bulletins and has been discussed orally at several sessions and has received no objections. The bill was heard by the committee in the House, passed 15 to nothing and was put on the consent calendar. We urge your support as ought to pass.

Adopted. Ordered to Third Reading.

HB 1168-FN, relative to voter registration and the United States postal service. Inexpedient to Legislate. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: This bill would have been contingent on federal legislation and at present is being held up pending the agreement between the postal service and the federal government. This may take some time. If the bill is not acted upon in Congress, it will become meaningless and have to be wiped off the books. There is also an undetermined cost involved. The committee felt that it would be premature to act on the bill at this time and recommends inexpedient to legislate.

Adopted.

HB 731, relative to applications to vote for overseas voters. Ought to Pass. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: This bill enables the voter who is eligible to vote and who is located overseas to fill out a single application, which will allow them to vote in both the primary and the general election. This process must be repeated on an annual basis. At present, they fill out an application for each election and then locate individuals to do an affidavit, which is sometimes difficult to do. It applies only to the state and federal elections, but not local. The legislation has been approved by the Secretary of State and we urge your support of the executive committee vote of ought to pass.

Adopted. Ordered to Third Reading.

HB 810-FN, relative to overseas voters. Ought to Pass. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: This bill both adds to and corrects HB 464, which was passed last year. The changes are as follows: Change overseas voting to readout of the country; delete the need for affidavit by a notary public; give the person who will be 18 years of age by the next election the chance to register to vote absentee if he or she is overseas or out of the country; four, it also adds the postal card application form for absentee ballot. Basically, what we are trying to do with this bill is to treat the citizens that are out of the country the same way we do armed service voters. Thirty-four states have done this so far. This bill has strong support from the Secretary of State's office and we urge your support as ought to pass.

Adopted. Ordered to Third Reading.

HB 912, relative to rules in manufactured housing parks and warranties for presite built and prefabricated housing. Ought to Pass with Amendment. Senator St. Jean for the Committee.

ST. JEAN: HB 912 allows individuals to put "for sale" signs in their trailer parks. Secondly, if you purchase a mobile home park you have to file the new rules with the Attorney General's office and third, no person may sell any prefab homes in the State of New Hampshire without a manufacturer's warranty attached to that.

AMENDMENT TO HB 912

Amend the bill by deleting sections 3 and 4 and renumbering sections 5 and 6 to read as 3 and 4 respectively.

AMENDED ANALYSIS

This bill, as amended, allows the seller's or his agent's representative's name, address, and phone number to be placed on "for sale" signs in housing parks.

It prohibits a housing park owner from requiring a tenant to dispose of certain property or pets where such tenant had received prior permission from the park owner unless such disposal is for the health and safety of other park members.

As amended, the bill, establishes that no person may sell a new prefabricated or presite built home without a manufacturer's warranty stipulating that such home is free from substantial defects. The seller or manufacturer must correct substantial defects in materials or workmanship when reported by the buyer within one year of date of delivery.

Amendment adopted. Ordered to Third Reading.

HB 1163-FN-A, relative to nursing home care costs paid by counties. Ought to Pass. Senator White for the Committee.

SENATOR WHITE: I would like you all to refer to this chart that I have just passed out. What this bill does is it reinstates the state's portion of the nursing home care and allows it to go from the current 38-1/2% to 45% of the state and local match. Unbeknown to John Andrews of the Municipal Association, we are, with this bill, giving two million, three hundred thousand dollars back to the cities and towns for property tax relief via the county government. Back in 1981, as you can see according to the chart, it was a 50-50 match between the county and state and the federal gave 60%. In 1982, when we had the deficit crisis, the state lowered it's share to 15%, 1985, the federal government lowered it's percentage to 55% and the state increased 1%. Basically, what this is doing is it's reinstating the state's portion of the county nursing home care, up to 45%. Indeed it is property tax relief and would go back to the cities and towns via lowering of your county tax bill. I urge your passage.

SENATOR DUPONT: I'd been lobbied quite hard by the Strafford County commissioners on this one and there seems to be assurances that the intent of the commissioners is to return this savings directly to the cities and towns, which should reflect a reduction in everyone's property taxes, as a result of this. Is that not true?

SENATOR WHITE: I certainly would hope so. We had a lot of the counties in and my county, of Cheshire County, sent me a letter supporting this bill and did indicate that this, hopefully, would be in the

guise of property tax relief, obviously, because it would be that much less that would cost the cities and towns.

SENATOR BLAISDELL: This piece of legislation that you talked about, does this help the cities and towns?

SENATOR WHITE: Absolutely. Two million, three hundred thousand dollars back to the cities and towns.

SENATOR BLAISDELL: When you receive that revenue sharing bill, HB 352 I think it is, is this money in there?

SENATOR WHITE: No, John Andrews doesn't know about any of this money that goes back to the cities and towns. I specifically asked Mr. Disco, who was there for the county government, why John Andrews wasn't at the hearing because he doesn't recognize this is money going back to the cities and towns. He feels that it's some other funny money that's going on.

SENATOR BLAISDELL: Are you saying, Senator White, that he doesn't count this, this is not rooms and meals, this is not business profits and this is not dividends and interest? This is something else that you're talking about?

SENATOR WHITE: This is monopoly money. It's, according to John Andrews, it's not money going back to the cities and towns. I assure you, John Andrews is wrong. This is money going back to the cities and towns. This is property tax relief. This is good for your city, it is good for my town and it's good for our county of Cheshire County.

SENATOR NELSON: Senator White, roughly what's an example of this of how much money your town is going to get out of this?

SENATOR WHITE: Well, I didn't go through that laborious job of finding out how much each city and town, I'm sure that John could provide those figures, but he doesn't like to give you that side of the equation.

Adopted. Referred to Finance (Rule #24).

HB 1112-FN-A, relative to the Head Start program and making an appropriation therefor. Ought to Pass. Senator Bond for the Committee.

SENATOR BOND: This bill may be the most important bill we consider today. It makes an appropriation of \$434,000 to the division of human resources, executive department, to supplementally fund

New Hampshire's Head Start program. These funds are to be used to maintain staff salaries, about \$300,000 of it, at a competitive level and to maintain programs, transportation system of about \$130,000 of it. Head Start is something that the state has never put any funds into, we're the only state in the United States, I understand, that does not presently contribute funds to Head Start. As a result of Reaganomics, in the passing of responsibilities back to the states, we're now asked to come up with \$434,000, which if you will look at it as an investment based on experience, every dollar that goes in to Head Start it is estimated it produces about seven dollars worth of long term savings. There are presently 776 children, approximately 140 of whom are handicapped, in Head Start programs. The results of the programs that's been shown over the last 25 years, improved academic performance, lower absenteeism from school, get greater parental participation in the child's later education and other important social gains. This is an investment and we urge you and we urge Senate Finance, when it gets there, to support this bill.

SENATOR WHITE: We had a very interesting hearing on this bill and there are a couple of things that I think I should share with you in regards to that hearing. We had a Diane Hardwick from Manchester that came and testified, who had four children. Her first two children did not go through the Head Start program and were having a difficult time and are still having a difficult time in school. Her next two children, oh, next three - she had five children, the last three went to Head Start and are doing very well and do not need special education. Head Start has taught her how to teach her children in the importance of going to school, but the thing that really shocked me in her testimony was that she is now a teacher at Head Start. She is off welfare and she is working and welfare keeps going to her and telling her, we think this is terrible that you're working and we think you should go back on welfare. I would hope that at some point we could check out the welfare social workers that are encouraging people to go back on welfare. Here's a mother who pulled herself up by her boot straps, has five children, she's a single parent, she's off welfare and welfare is very unhappy that she's out supporting herself and her family and she indicates that her children and she are much better off being out in the workplace. I was absolutely horrified to find out that the Manchester Division of Welfare is encouraging her to go back on welfare because she's not making as much money. She thinks Head Start is great, it was good for her children and I think something should be looked into in regards to the welfare system.

SENATOR ST. JEAN: Would you believe, Senator, on this nice Spring day that I'm encouraged to hear you give credit to a great liberal program started by Lyndon Johnson, some years ago?

SENATOR WHITE: I can't believe I'm doing it, but if we can only look into welfare and clean their act up, I think more mothers would go back to work and it would be a much healthier; as President Reagan has indicated, workfair is much better than welfare.

Adopted. Referred to Finance (Rule #24).

HB 1088-FN-A, establishing pilot child care provider recruitment and training programs, and making an appropriation therefor. Ought to Pass. Senator McLane for the Committee.

SENATOR MCLANE: This, too, may be one of the most important bills that we pass this session. This bill is the result of study by a large group of business people and people within the profession of child care providers, who have come out with the need for more training and recruitment programs. Many of you may know that over 50% of mothers in New Hampshire work and that there are 35,000 preschool children that are being left in some sort of day care. There are only 23,000 licensed slots for these children. The need for more workers and more training has become more and more clear, not only to the providers and the mothers, but to industry as well. The day care center, which was founded twenty years ago in Concord, pays \$4.10 an hour. McDonald's has been advertising for workers, to which they would pay \$6.00. Day care is in a crisis situation and if you don't think it's in a crisis situation, then just look at the figures for 1995, when there'll be 150,000 children in need of day care services in the State of New Hampshire. The need is there and this is a suggested bill for recruitment and training. This would be through the voc-ed courses, through UNH and through the School of Lifelong Learning. I urge that you pass this bill onto Finance.

SENATOR HOUNSELL: I rise in opposition to this bill. Not that I don't recognize that there's a need for child care providers, but that's what I thought a parent was, a child care provider. But, what I truly oppose is the \$100,000 appropriation and how that money will be used. If you look, 75% of the funds appropriated under this program, shall be used to contract with local, nonprofit corporations concerned with the well-being of children for the purpose of recruiting and training family day care providers. I'm thinking of various types of organizations that might fit under that category. Some organiza-

tions that I might not think would be appropriate for the State of New Hampshire to be sending \$75,000 to. Regardless of that, if that isn't enough to raise your concerns about this bill, I would offer you this. If there is a need out there, if business is being hurt in their recruitment because of working mothers, or working fathers, who desire to work but can not because they can not find child care, why isn't it the responsibility of business to fill that void and why don't we wait until the free enterprise system that made this country so great, those entrepreneurs that find solution to problems, not through government intervention, but by initiative, why don't we wait and allow them to pick up the ball and go for it. I think this bill is a foot in the door, the \$100,000 this year will mean probably a million or two next year for a full blown program and I strongly urge the defeat.

SENATOR CHANDLER: Senator McLane, you mentioned that this money would be given to several different agencies. Could you tell us what those agencies are?

SENATOR MCLANE: I'd be delighted to; that's exactly the question I was going to ask of Senator Hounsell. This would be the voc-ed program and a training at UNH and the School of Lifelong Learning. There are, established already, training programs. The point I wish to make was that these programs do, obviously, cost money and if you have a worker that's getting paid \$4.10 an hour, they obviously can not afford the necessary training. So, these programs which are already set up would have scholarships for workers to go to the program and become trained. I don't think that perhaps Senator Hounsell realizes, but day care is a very professional program to take care of someone else's child and educate them. This training is necessary.

SENATOR CHANDLER: Did you realize that I didn't intend for a speech to be given, I just wanted to know what agencies are going to be given the money. Can you tell me?

SENATOR MCLANE: I believe I answered that question. The vocational-educational program, the University of New Hampshire and the School of Lifelong Learning.

SENATOR CHANDLER: Just those three?

SENATOR MCLANE: That is the description given for local, non-profit organizations.

SENATOR HOUNSELL: I guess my questions are the following: is planned parenthood a nonprofit organization and are they concerned with the wellbeing of children?

SENATOR MCLANE: They are absolutely concerned with the wellbeing of children and I don't think there is anything in this bill that involves planned parenthood. Planned parenthood does not train day care workers.

SENATOR HOUNSELL: Well, my understanding is that 75% of the funds raised under this, they would be eligible to go into the business, my reading of it. I don't see anything about voc-ed or UNH or anything, I'm seeing an open door for planned parenthood to go into the business of day care. I'm wondering why you don't know more about that.

SENATOR MCLANE: I'm so flabbergasted at the specter of planned parenthood being brought into a discussion on day care that I find myself at a loss for an answer. This is a program that involves the University of New Hampshire, the School of Lifelong Learning and vocational ed. If you find the definition, local, nonprofit organization confusing, I am sorry. But, there was no testimony in any way that planned parenthood would have anything to do with this program.

SENATOR HOUNSELL: I'm sure that you're accurately telling me what was said in the hearing. But, isn't it the case, the language of the bill, would allow for them to participate in this?

SENATOR MCLANE: If the language of the bill discusses a local, nonprofit organization I can think of, well there are 50 in the city of Concord for the United Way. There are a lot of local organizations, but this is a program carefully structured to recruit and train necessary and needed day care workers. It has nothing to do with planned parenthood.

SENATOR HEATH: I rise, as well, in opposition to this. Many companies, including our own, are looking into providing day care for employees. We do that because we need employees and that's one thing you can offer and entice employees. Now if the State starts taking this over, and this is one giant step in that direction, you'll create by this a lobby and we'll be appropriating larger and ever increasing responsibilities in this area, if we take this first step. Our business, I'm sure, and a lot of other businesses will say, the State's taking care of that, now we can pay our workers less because the

State's taking care of that. We won't be paying them more or we won't be providing the service that the extra pay would get them if the State's going to take that responsibility and it's very much the same as subsidizing housing. Why don't you let businesses pay higher wages to people so they can buy affordable housing so that they can put their children in day care on their own, rather than come and have us provide it so that those people stay in the lower wage class. We're doing that to get employees and I assure you that our company decision will be like a lot of others that if the State comes in to do it for us it's in our best interest to back away from it. I think you're defeating the very thing that you want and that's day care provided at the least expense. So, I would strongly urge you to vote against this before we get headlong into another program that down the line we can't afford.

SENATOR JOHNSON: Senator McLane, first off do you believe that I share some of the concerns of Senator Hounsell in regards to the specificity of this? Secondly, if indeed, these funds are to be appropriated to the University of New Hampshire, the School of Lifelong Learning and vocational-educational programs, why doesn't the bill say that?

SENATOR MCLANE: Because the bill is drafted so that it would cover. The bill is to cover training and recruitment and this could be far more reaching than just a course at the University. Recruitment is going to be a necessary step. The bill is certainly not specific about the courses that are offered, but it was very clear that this was not reinventing the wheel. There are these courses. They just need people to go to them and people who can afford to get scholarships.

SENATOR JOHNSON: Isn't it true though, Senator McLane, that in your presentation you emphasize that the funds would be going to these well established State Universities, when in fact the language of the bill is very vague as to who would be recipient?

SENATOR MCLANE: Until this specter of family planning came in there has never been an objection to defining a course as something run by a nonprofit organization. I think that that phraseology makes it very clear that they aren't going to be setting up for profit organizations to train day care workers.

SENATOR KRASKER: Had I known that this bill, which came before our committee, had no opposition and was a unanimous vote of our committee, was going to be so controversial, I probably would

have reported it out, Susan, so you wouldn't have had to go through this. This is a bill which meets certain needs which we have in the state. One of them was referred to earlier by Senator White, when she was talking about welfare. We have put a large day care component into welfare reform. We want people to be able to go back to work. Some of the people who would go back to work need day care, but unfortunately there is not now the day care available in the state for people to use. This bill will aid in recruitment and training of day care workers; certainly existing day care centers will assist in this. But the bill really encourages people to have day care in their own homes and some of the funding will be used to encourage people to have small day care within their home for a small number of children. Actually, it's going to help them set up a small business; it's not state controlled; it meets a very important need. John Fransway came from the division of human services and urged us to pass this bill because he feels it's necessary because of our efforts in welfare reform. No one testified against this bill at the hearing; nobody mentioned planned parenthood.

SENATOR BLAISDELL: I rise in support of Senator McLane's committee report. I see nothing in this bill that will have anything to do with planned parenthood, if it does, it's certainly after the fact, Susan, so I think I'd have to say it that way. I would hope that you would send this to Finance, I'm not sure what kind of money that will come out of the bill when it comes out of Finance. We certainly will take a look at it Senator Johnson, on the questions that you've raised, if you bring it to us. But, the point I guess I would like to make is we talked about saving money in this State and we can save money by doing things of this type anymore than we can take women on AFDC and give them some dental care and some more day care so they can get out in to the private sector and get a living. Nobody thinks about that, we'll put \$75,000 into look at foundation aid and not say anything about it at all when we can do that with a couple of clerks. But, \$75,000 or whatever the money is, is a good investment in the state. I ask you to send it to Finance; I think it's an important piece of legislation; it will save the state money in the long run.

SENATOR DISNARD: I rise in support of this program. I've heard a learned Senator indicate that his industry or his business would take the money and provide this service to his employees. My question of that Senator is, who's going to train those workers, where is he going to find those workers to work? All this is asked for money to recruit and train to make available to those people who are in the

same circumstances that we are, to be able to support their families and get off welfare rolls. I, for one, want to stand up in favor of anybody who desires to get off the welfare rolls and build up their self esteem and I think we should applaud those people.

SENATOR MCLANE: Senator Heath, Senator Disnard has really asked my question about who is going to train the workers that come to your day care center. But the other question is did you know that the state is now deeply involved in the day care system. It licenses 9,800 day care facilities and that if you do have a program for day care, it would have to be licensed by the state?

SENATOR HEATH: Yes.

SENATOR HOUNSELL: I appreciate the Senate's patience in this. I know we were cruising along, but this is important legislation. Senator Krasker, you spoke of things that aren't included in the bill and I'm just wondering why I can't, as we're in the process of making law, why I shouldn't, why no one else shouldn't, look at, on page 2 roman numeral 2A, and point out that that could go to any number of groups. It isn't restricted to programs that have been discussed by yourself and Senator McLane, but it really is a bill that is poorly written. It's not a bad idea, but a poorly written bill. My question to you is, can you show me in the language of the bill where it says this is going to be used by anything but local, nonprofit organizations concerned with the well being of children?

SENATOR KRASKER: I think I probably could refer you, Senator Hounsell, to the testimony at the hearing, which really established the legislative intent of this bill. If you feel that the wording within 2A is not specific enough, I would ask Senate Finance to tighten up the wording.

SENATOR HOUNSELL: Would you believe that we're not legislating testimony, we're legislating the bill that's before us?

SENATOR KRASKER: Well, legislative intent, to my knowledge, has always been used in defining what legislation does and what it means. But, I repeat, if you have a concern and I understand what your concern is, that I would ask that Senate Finance tighten up the wording. It was quite clear in the testimony at the hearing that the words, "concerned with the well being of children" were really directed to day care providers.

SENATOR JOHNSON: Clearly, I'm uncomfortable with the bill that's in front of us here now, but I think that there is some merit to

what's behind this bill and I would like to have an opportunity before the Senate Finance committee to bring in, what I would consider, an expert witness to speak to this issue and that would certainly make it more comfortable for me to cast my eventual vote on this.

SENATOR NELSON: Anything I say at this time would be redundant. I would just say that this discussion certainly echoes the fact that there is some concern and it's a problem that needs to be addressed. I would then again use the same verb to echo the comments of my colleague from Keene and that is, let's send it to Senate Finance, give them another opportunity to have a hearing and to tighten up the language.

SENATOR MCLANE: I'm so confused by what you're saying that I want you to turn to the second page of the bill. It says, "local non-profit organizations concerned with the well being of children, for the purpose of recruiting and training family day care providers", I fail to see how it possibly could be clearer, that it's for the recruiting and the training of day care providers. If your objection is with that, then that's fine. But, to say that the wording isn't clear, I guess I'm asking you, how could that wording be any clearer?

SENATOR HOUNSELL: What you gave as testimony for the reasons behind this are not reflected in the bill. And I'm pointing out that that definition certainly does include planned parenthood and there are probably several others, but I did like your word of specter of planned parenthood. I think that's accurate.

SENATOR WHITE: There does seem to be some confusion on the bill so I would like to make a motion at this time of interim study.

Senator White moved to substitute Interim Study.

SENATOR PRESTON: I'd like to speak to that motion and I urge the defeat of it. I don't think that resolves anything. I haven't heard anyone speak against the intent of the bill for what it hopes to resolve. I think if you want to address an amendment, you can address it in Finance, you can put it on the table. But, to send it to study, I think is a cowardly way to address the issue.

SENATOR HEATH: Senator Preston, you said you haven't heard anyone speak against the intent of it. I spoke against the intent of it. Did you hear me?

SENATOR PRESTON: I heard you give reasons why, but I think when Senator Krasker responded, she refuted what you said, Sena-

tor. She said that would actually benefit what you folks are attempting to do for business; it would help business; it would start small businesses; it would get people off welfare; these are the very thing you stand for, Senator. I should think you'd be happy to address them in some form. To send it to study, really!

SENATOR HEATH: Would you believe that the reason I spoke against this is I have a strong fear that as you move it more and more into the public sector and finance it more heavily that this will become a lobby for increased finances each year. That you will find it drying up from the business sector, which is just beginning to acknowledge that there is a need for it, they're beginning to plan for it in their future plans, as we are; they are beginning to develop these things. Just as business begins to finally get aboard and understand that's the way to get employees and quality employees, a way to attract them and hold them, suddenly the state comes marching in and businesses are going to say, let the State do it.

SENATOR PRESTON: If that was a 'would you believe' Senator, yes I believe that you feel that way. I think you and Senator White should go for the motion and 22 other Senators should vote against it.

SENATOR KRASKER: Senator Heath, I believe that we're all agreed that we should be encouraging businesses to develop day cares. But, Senator Heath, where do you think the day care workers are going to come from? They're not available. Would you believe that's the purpose of this bill, to provide qualified staff for the very day care you want to see developed?

SENATOR HEATH: I would believe that businesses, by and large, when they get involved in it will be paying their staff more than the organizations that are doing day care now and that they will attract people and the others will then have to either meet the demand or train more people. But, the private sector, the marketplace will take care of it. If there's a demand, you pay what you have to to get those people, and that brings people into the profession.

SENATOR HOUNSELL: I rise in support of the motion of interim study on two reasons, and I'm going to keep it brief. First one is this is a major pilot program, as the bill says, and it's happening at the same time where businesses are starting to address it. We should be studying this, yes, but we shouldn't be going ahead of the initiative from the business community. I think interim study is a proper mo-

tion at this time, for that reason. But, another reason is this, I've been told that we've got a heavy workload and I don't think we should be putting too much policy load onto the Finance committee. This is a major policy, major program; it should be studied and it should be studied further and I think that the motion of interim study is a very wise one and I strongly urge your support.

SENATOR HOUGH: I would urge you to vote against interim study and have this bill referred to Finance. We have a number of concerns dealing with these human service agencies; we have to get together with them and review some of their requests in terms of the supplemental. In conclusion I'd like to say this, you know I think the time is coming when we should get out of here, I today would be more inclined to take the learned counsel of members of this body who live in the first district, what I've heard this afternoon from my colleagues in the Senate district make me wonder whether I might also be too late in getting into a district campaign.

SENATOR PODLES: Senator McLane, could you tell us if this is a one time appropriation of \$100,000 or is this going to cost a lot more in the future?

SENATOR MCLANE: I certainly can not say that it's going to cost a lot more in the future or that it is a one time appropriation. The State of New Hampshire has a committee that has been studying day care for two years. This is their recommendation. The recommendation is for scholarships to learn how to be good day care workers. Those scholarships, I assume, the need will go on, as I told you, the figures in 1995 will be double the number of children in need of day care in this state. So, my assumption is that there is going to be an ongoing need for training of day care workers. \$100,000 is not very much when you think of day care as a practically ten million dollar industry in this state. If you know anyone that has a child in day care, you know that it's a three or four thousand dollar a year proposition, for one child to go to day care. It seems very little for training for their teachers or day care providers.

SENATOR BOND: I rise in opposition to the present motion. I think that Finance should have the opportunity to take a look and tighten up the language. I agree with Senator Hounsell that it is too loose, but I do think that the legislation should be looked at further rather than sent to purgatory right now.

SENATOR DUPONT: Senator McLane, I don't think any of us have a fundamental problem with the state being involved in day care and

if I'm not mistaken, we already have spent a considerable sum of state monies to provide day care support throughout the state. But, I think the problem, that you alluded to earlier on, was the lack of the ability to pay decent wages in day care and my concern is, we can go out and train all the people that we want to train, but until such time as those day care centers can provide wages that are comparable with what other industries that provide a need for those same workers can provide, you're never going to solve the problem that you're trying to address with this bill and for that reason, I have a problem with it. I don't think the consensus is if there's not a problem out there, because I think we all recognize that there is a problem, but the problem isn't training. The problem is a lack of ability to pay qualified people.

SENATOR MCLANE: I don't really agree with you and I think you're misreading the problem. As is true of teachers, there are many people that love children and they love to take care of them. This is 75% of the scholarships will go to people who have family based day care and what this does is train them how to run a day care center; how to take care of children in a way that is helpful to those children instead of just sitting them down in front of a TV and leaving them there until their parents come to collect them. So, I think this does not at all address the price, the wages, paid to day care people. The state can not address that problem. It addresses the professionalism of the people and the encouragement and recruiting of people to go into this necessary practice.

SENATOR JOHNSON: I just stand here with a very uncomfortable feeling, at this time here. I think there's enough merit to this idea to defeat the pending motion of interim study and allow those of us, who still have some concerns and questions, another opportunity to look into this. I must confess that this came upon me rather suddenly and I think that we ought to provide another opportunity to take a look at this serious question here and lay some of them to rest and then when it comes back up on the floor, we can vote with greater confidence.

Roll Call requested by Senator Preston.
Seconded by Senator Chandler.

The following Senators voted yes: Hounsell, Heath, Freese, Dupont, Chandler, Roberge, White, Charbonneau, Podles and Stephen.

The following voted no: Bond, Hough, Disnard, Blaisdell, Pressly, Nelson, McLane, Johnson, St. Jean, Torr, Delahunty, Preston and Krasker.

10 Yeas

13 Nays

Motion lost

Question: Ought to Pass.

Adopted. Referred to Finance (Rule #24).

HB 1180-FN-A, increasing the rate for residents of enhanced family care facilities and making an appropriation therefor. Ought to Pass. Senator Krasker for the Committee.

SENATOR KRASKER: Enhanced family homes are community residences which are licensed and certified for persons with developmental disabilities, in an actual family home. This is so a person has the opportunity of living with a family and enjoying the benefits of family life. Most of the homes have one to three persons, although they may care for at least eight persons. One reason for the emergence of these homes was to take care of people who would be institutionalized from the Laconia State School. Agencies contract with homes to provide the service and there are approximately 250 people in this system. If you recall at one time there were 1500 people housed at Laconia and most of these people have come into the community. But, the living facilities are becoming scarcer. It's becoming exceedingly difficult for agencies to find homes with those with the severest disabilities because there hasn't been a rate increase since 1981. So, it's no longer financially advantageous for people to provide these homes.

What this bill will do is add an average of about \$100 a month depending on the severity of the disability. In total, this bill will appropriate \$296,000 to increase the rates for enhanced family care facilities, which is an average of about \$100 a month, depending on the severity of the disability and I would urge your approval.

Adopted. Referred to Finance (Rule #24).

HB 1190, relative to Belknap county attorney. Ought to Pass. Senator Freese for the Committee.

SENATOR FREESE: There were two representatives from the Laconia area that appeared before the committee. There was no objection and it was stated that the Belknap County delegation, by a

great majority, would favor this bill. The floor amendment that's being offered by Senator Heath addresses the timing of the effectiveness of the bill and we have no objection to that. We recommend it ought to pass.

Senator Heath offered a floor amendment.

SENATOR HEATH: This amendment changes the effective date until after the sign up for the election so that anyone signing up to run for that position will know in advance the rules of the game.

Floor Amendment to HB 1190

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect July 1, 1988.

Floor amendment adopted. Ordered to Third Reading.

HB 798-FN, relative to special function liquor licenses for clubs and special liquor licenses and permits for non-profit organizations. Ought to Pass with Amendment. Senator Stephen for the Committee.

SENATOR STEPHEN: The first section of this bill simply allows the liquor commission to issue an additional 18 licenses per year to clubs who are licensed to serve liquor. The licenses permit these clubs to set up a new bar facility to serve alcoholic beverages to private groups in a rental hall approved by the commission. Present law allows only up to 18 events a year for a fee of \$300. This increase to 36 events a year for a fee of \$500 would allow clubs, such as the American Legion and the Elks, to hold additional functions so to bring in more revenue in their events.

The amendment to this bill, adopted by the committee, would allow certain hotels to sell bottled wine, beer and liquor for mini bars located in the rooms of the hotel guests. Mini bars shall be kept under lock and key and access will be available to guests of all legal drinking age. A mini bar is a small refrigerator that different hotels, out of state, use. You can store juices, little bottles of liquor; also I have a picture of the mini bars.

Section four of this bill permits the liquor commission to extend certain liquor licenses to allow the sale of beverages and liquor in outside areas, such as an outdoor cafe which isn't permitted. This would

make it easier; the mini bars would make it easier for people who do not wish to go to a lounge to stay in their hotel room and enjoy themselves for the evening. It's a good bill.

SENATOR JOHNSON: Senator Stephen, would you believe it if I said I'll drink to that?

Amendment to HB 798-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to special function liquor licenses for clubs, certain liquor licenses and permits for nonprofit organizations and hotels, extension of certain liquor licenses to outside areas, and establishing a committee to study state liquor laws.

Amend the bill by replacing all after section 2 with the following:

3 Licenses for Mini-Bars in Hotel Rooms. Amend RSA 178:3, I(c) to read as follows:

(c) Include a specified quantity of complimentary beverages as part of a bona fide contract for the hosting of a convention or offer a specified quantity of complimentary beverages in soliciting such conventions. As used in this paragraph "convention" means an assembly of persons participating in a business, social, political or other type of meeting to exchange ideas, views and information of common interest to such group. Notwithstanding RSA 175:10 or any rules adopted under that section, hotels may advertise and offer package deals to resident guests, which include complimentary drinks, provided such offers shall be limited to persons of legal drinking age[.];

(d) Sell liquor and wine in 50 ml., 187 ml., and 375 ml. bottles and beer in containers not exceeding a 12 ounce capacity, which shall be stored under lock and key in a cabinet or miniature refrigerated bar in hotel rooms and which shall be available only to hotel room guests who are of legal drinking age.

4 Authorization for Other Areas. Amend RSA 178:4-a to read as follows:

178:4-a Authorization for Other Areas.

I. The commission may from time to time at its discretion extend the provisions of RSA 178:3-c, RSA 178:4, RSA 178:5-b and RSA 178:8 to govern the sale of beverages and liquor in any room of said hotel other than the dining room or to any patio or swimming pool area not within direct view of any public way.

II. The commission may grant permission to any holder of a license issued under RSA 178:3-c or RSA 178:4 to extend the sale and service of beverages and liquor to an outside cafe style area where permitted by ordinance and with written approval of town or city officials.

5 Study Committee Established; Purpose and Membership.

I. There is established a legislative study committee to examine the state's liquor laws and to recommend necessary legislation as a result of such examination.

II. There shall be 10 members on the study committee which shall include 5 senators, appointed by the senate president, and 5 representatives, appointed by the speaker of the house of representatives. Members of the study committee shall be allowed mileage, under RSA 14:15-a, on the days the members meet as a committee.

6 Report. A report of the study committee's findings and recommendations shall be made to the senate president and the speaker of the house of representatives by December 15, 1988.

7 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill, as amended, allows the liquor commission to grant a license to hold up to 36 special events per year, in a club licensed to serve liquor, for a fee of \$500 per year, as an alternative to the 18 special functions for a fee of \$300 per year allowed under current law.

The bill, as amended, eliminates the limitation on a limited permit or license for a nonprofit organization to members and guests of the organization for whose benefit the permit or license is issued.

The bill, as amended, also permits certain hotels to sell beer and bottled wine and liquor to be stored, under lock and key, in the rooms of hotel guests. Access to stored beer, wine, and liquor will be available only to guests of legal drinking age.

As amended, the bill permits the liquor commission to extend certain liquor licenses to allow the sale of beverages and liquor in outside areas. The amended bill also establishes a legislative study committee to examine and make recommendations for legislation concerning the state's liquor laws.

Amendment adopted. Ordered to Third Reading.

SENATOR ST. JEAN: My testimony on HB 912, I want to make sure that the record is correct. What I said was that any new rules for new trailer park owners had to be filed with the AG's office.

What I meant to say was that part of the particular bill was deleted on the amendment which appears on page 9. It deletes section three and four of the bill. I just wanted to make that perfectly clear, Mr. President.

HOUSE MESSAGE

HOUSE CONCURS

SB 253, relative to the length of vehicles.

SB 269, relative to indoor air quality in certain state buildings.

SB 273, relative to capital murder.

SB 286, relative to exchanging police information, on a reciprocal basis, with other states.

SB 287, relative to police assistance from other states.

SB 309, enabling cities and towns to transfer revenues from the land use change tax to the local conservation commission.

SB 318, establishing a committee to study the feasibility of establishing a New Hampshire Zoological Park.

SB 333, relative to notaries public, commissioners of deeds, justices of the peace, the department of state and emergency interim succession.

SB 337, adopting the uniform federal lien registration act.

SB 354, establishing a Connecticut River bridge advisory commission.

ENROLLED BILLS REPORT

HB 799, relative to certain state publications and making appropriations for their more efficient production.

HB 770, relative to loan scam operators.

HB 774, relative to the New Hampshire municipal bond bank.

HB 911, relative to service of termination on a manufactured housing park tenant.

HB 966, relative to cellular radio telecommunications services.

HB 1074, relative to prior service credit for the retirement system.

HB 1099, making New Hampshire retirement system maximum benefit limitations comply with the Tax Reform Act of 1986.

HB 1203, relative to the payment of a claim against the state and making an appropriation therefor.

SB 250, changing the reporting date for the task force to study support services for families with developmentally disabled children.

SB 257, extending the reporting date of the biomass study committee.

RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Tuesday, March 29, 1988 at 1:00 p.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 790-FN, relative to the public investments study committee.

HB 1093-FN, relative to reporting requirements of corporations having securities registered in this state.

HB 1016-FN, relative to municipal borrowing due to certain bankruptcies.

HB 537-FN, relative to regulation of the practice of nursing.

HB 1090-FN, relative to drugging animals in livestock events and relative to audits on agriculture fairs.

HB 923, relative to dredging on great ponds.

HB 755, relative to the Goffstown police department.

HB 766, relative to utility easements.

HB 731, relative to applications to vote for overseas voters.

HB 810-FN, relative to overseas voters.

HB 912, relative to rules in manufactured housing parks and warranties for presite built and prefabricated housing.

HB 1190, relative to Belknap county attorney.

HB 798-FN, relative to special function liquor licenses for clubs, certain liquor licenses and permits for nonprofit organizations and hotels, extension of certain liquor licenses to outside areas, and establishing a committee to study state liquor laws.

Senator Dupont moved that the Senate adjourn.
Adopted.

Adjournment.

Tuesday, March 29, 1988

The Senate met at 1:00 p.m.
A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, we remember your suffering and sorrow in our prayers and meditations. Jesus said, "See if there be any sorrow like unto my sorrow which was done unto me"! Lord, have mercy upon us.

Amen

Senator Blaisdell led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

HOUSE MESSAGE

HOUSE NONCONCURS WITH SENATE AMENDMENT
REQUESTS COMMITTEE OF CONFERENCE

HB 848, relative to burials on private property.

The Speaker appointed Representatives Benton, Welch, Anderson and Flynn.

Senator Pressly moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Pressly, Heath and Charbonneau.

HB 756, prohibiting harassment of police dogs or horses.

The Speaker appointed Representatives Johnson, Cote, Gage and Robinson.

Senator Podles moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Podles, Nelson and White.

HB 803, relative to snowmobile operation and changing compliance dates for ATV manufacturers.

The Speaker appointed Representatives Scanlon, Boucher, Perham and Dionne.

Senator Preston moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Preston, Hounsell and Torr.

HB 819, relative to the setting of black bear seasons.

The Speaker appointed Representatives Smith, Dionne, Boucher and Perham.

Senator Hounsell moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Hounsell, St. Jean and Freese.

HB 881-FN, relative to weights and measures.

The Speaker appointed Representatives Campbell, Greene, Bowler and Popov

Senator Freese moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Freese, Dupont and Disnard.

HB 897, relative to annual reports of county officers.

The Speaker appointed Representatives King, Perry, West and Gage.

Senator Charbonneau moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Charbonneau, Johnson and Pressly

COMMITTEE REPORTS

HB 885, relative to establishing a boat safety fund; and requiring a boat safety course or administrative fine for offenses while boating. Ought to Pass with Amendment. Senator McLane for the Committee.

SENATOR MCLANE: This bill, as amended, establishes a boat safety fund in the office of the State Treasurer. Any person convicted of certain offenses, and we have added several offenses to the original reckless driving at the request of the marine dealers, while operating a boat may, in addition to other penalties imposed, be required to pay a \$200 administrative penalty into this fund. If the person completes a boat safety course, at his own expense and

within six months of conviction, he shall have the \$200 refunded to him. This is similar to the DWI offense with your driving license. Bob Danos is in full support; they have the courses now. Four thousand volunteers have taken this course and it's a three hour course.

AMENDMENT TO HB 885

Amend RSA 270:46-a as inserted by section 1 of the bill by replacing it with the following:

270:46-a Boat Safety Fund; Boat Safety Course.

I. In addition to any other penalty imposed, any person who is convicted of violating any of the following boating laws or rules of the division of safety services shall be assessed an administrative penalty of \$200 to be paid to the director of safety services who shall forward such sum to the state treasurer for deposit in the boat safety fund:

(a) Speed limit, safe passage, or personal flotation device rules adopted under RSA 541-A;

(b) RSA 270:12-b, disobeying an officer;

(c) RSA 270:29-a, careless and negligent operation of boats;

(d) RSA 270:37, decibel limits on noise;

(e) RSA 270:50, refusal of consent;

(f) RSA 631:5, operating boats under the influence of liquor or drugs.

II. Any person who pays such penalty and who, within 6 months of conviction, completes at his own expense a boat safety course as specified in rules adopted, under RSA 541-A by the director of safety services shall have his \$200 refunded to him from the boat safety fund by the director. All moneys deposited in the boat safety fund shall be continually appropriated to the division of safety services.

AMENDED ANALYSIS

This bill, as amended, establishes a boat safety fund in the office of the state treasurer. Any person convicted of certain specified offenses while operating a boat, may, in addition to the other penalties imposed by law, be required to pay a \$200 administrative penalty to the director, division of safety services, department of safety. If such person completes a boat safety course, at his own expense and within 6 months of his conviction, as specified in rules adopted by the director, he shall have his \$200 refunded to him.

Amendment adopted. Ordered to Third Reading.

HB 902, relative to county foresters. Ought to Pass with Amendment. Senator Preston for the Committee.

SENATOR PRESTON: This bill specifies the foresters, as under the direction of the division of forests and lands, shall cooperate with local communities in regards to needs for advice. The amendment merely changes the words "local legislative body" instead of "any elected official". It's a good bill to help the communities in the extension services of the University.

AMENDMENT TO HB 902

Amend RSA 218:5, I(f) as inserted by section 1 of the bill by replacing it with the following:

(f) be responsible for the forest management of all state owned woodlands except those areas managed for special purposes. The director shall consult with the directors of all agencies responsible for such areas in regard to forest management. County extension foresters shall be under the joint direction of the director and the director of cooperative extension services, university system of New Hampshire, and shall, upon the request of a local government body, conservation commission, or local planning board, provide advice and assistance on forestry issues including, but not limited to, current use, urban forestry, shade tree maintenance and other matters within their expertise and training; and

Amendment adopted. Ordered to Third Reading.

HB 826-FN-A, authorizing the hiring of a consultant to review the effectiveness of foundation aid, and making an appropriation therefor, and relative to the teacher shortage study committee. Ought to Pass. Senator Disnard for the Committee.

SENATOR DISNARD: There are two parts to this bill. The first part of this bill is identical to SB 289, as amended by the Senate Finance Committee and sponsored by Senator Nelson. So, we've already passed the same language in another bill. The second part of this bill, all it does is change the date. It refers to the teacher shortage study committee. A report is supposed to be available for the 1988 legislature. Many meetings were held. They're asking for the preliminary report to be submitted on or before September 1, 1988 and a final report on December 31, 1988. So, repeating myself, we've already approved the first part in a similar bill and all this asks for the teachers shortage study committee an extension of the report date.

Adopted. Referred to Finance (Rule #24).

HB 1201, authorizing school districts to teach New Hampshire's cultural heritage and ethnic history in school. Ought to Pass. Senator Hough for the Committee.

SENATOR HOUGH: Your committee on Education had a public hearing on this piece of legislation, took a great deal of testimony and it is in complete agreement with the objectives of this act and we strongly urge your passage.

SENATOR WHITE: My question is, is it permissive as opposed as to mandatory?

SENATOR HOUGH: Yes, it is.

Adopted. Ordered to Third Reading.

HB 824, relative to area school district agreements. Ought to Pass with Amendment. Senator Johnson for the Committee.

SENATOR JOHNSON: HB 824 essentially provides for some stability between area school districts there. It will require an agreement to remain in force for at least four years and that will provide the stability in a number of communities. There was no opposition to that provision.

The amendment, on page 10, implements a recommendation of a study committee, having to do with providing additional support for the SAU's. It calls for some additional staff people that would provide assistance in disputes, internal reorganization, the whole notion of reorganizing the SAU's. This was supported by the New Hampshire School Boards Association and there was no opposition to that at the hearing.

AMENDMENT TO HB 824

Amend the title of the bill by replacing it with the following:

AN ACT

relative to AREA school district agreements and relative
to staff services to school administrative units,
and making an appropriation therefor.

Amend the bill by replacing all after section 1 with the following:

2 New Paragraph; Professional Staff Services to School Administrative Units. Amend RSA 21-N:5 by inserting after paragraph II the following new paragraph:

III. Provide school administrative units with professional staff services including direct services to school administrative units in improving the effectiveness and efficiency of administrative and instructional services. Such services shall include, but not be limited to, assistance in addressing problems, resolving disputes, and planning for internal reorganization; development of clearer role definitions for superintendents, assistant and associate superintendents, and school boards; and provision of resources and programs for board training and community education regarding school administrative unit functions and board and staff roles and responsibilities. The commissioner of education may assign these staff to any office within the department which he deems appropriate.

3 Positions Established. To carry out the purposes of section 2 of this act there are hereby established the following permanent full-time classified positions in the department of education:

I. Two curriculum supervisors

II. One word processor operator I

4 Appropriation. The sum of \$130,000 is appropriated to the department of education for the fiscal year ending June 30, 1989, for the purposes of sections 2 and 3 of this act. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

5 Effective Date. This act shall take effect July 1, 1988.

AMENDED ANALYSIS

This bill, as amended, provides that if an area school district votes to keep the area agreement as it is, that decision cannot be reconsidered for 4 years.

The bill also mandates that the office of administration in the department of education shall provide professional staff services to SAU's. The bill establishes 3 permanent full-time classified positions for this purpose. It appropriates \$130,000 to the department of education for these positions.

Amendment adopted. Ordered to Third Reading.

HB 1154, permitting the Waterville Estates village district to exceed its debt limitation. Ought to Pass with Amendment. Senator Disnard for the Committee.

SENATOR DISNARD: The Waterville Estates includes the towns in Grafton District, of Campton and Thornton. This was a bill that was co-sponsored by Senator Hounsell. I think it's important for us to know that the Waterville Valley village district was formed to help these communities. As an example, one time there was over 26 miles of private road that needed maintenance and funding and the communities couldn't afford it and this district took it over and is funding those. At another time, this district took over an incomplete water system from the original developer who went bankrupt and funded it and carried it through. They also provide recreational facilities. There was a fire, the facility was insured for one million dollars, and it burned down. The tax situation indicates that that money must be re-spent within the two year period or the money is taxed. The community has approved, and will approve, I understand, the further vote the extension of this bonding to allow them to continue with this Waterville Estates village district by 1.6 million additional dollars and the revenue administration did not object to this. They were at the hearing and spoke. It's unusual to have a group of 800 taxpayers take on these responsibilities. They have a proven record.

AMENDMENT TO HB 1154

Amend the bill by replacing section 1 with the following:

1 Borrowing by Waterville Estates Village District. Notwithstanding any provision of RSA 33:4-a and 4-b to the contrary, Waterville Estates village district, a village district situate in the towns of Campton and Thornton, New Hampshire, is hereby authorized to exceed its debt limitation by borrowing an amount not to exceed \$1,600,000 for the purpose of capital improvements to the Waterville Estates community center complex. Notwithstanding any provision of RSA 33 to the contrary, such indebtedness shall not constitute net indebtedness for purposes of determining the future borrowing capacity of the district.

AMENDED ANALYSIS

This bill authorizes the Waterville Estates village district to exceed its debt limitation by borrowing an amount not to exceed \$1,600,000 for the purpose of capital improvements to the Waterville Estates community center complex. Under the bill, as amended, this indebtedness shall not constitute net indebtedness for purposes of determining the future borrowing capacity of the village district.

Amendment adopted. Ordered to Third Reading.

HB 737, relative to appointed alternates for school board members on municipal budget committees. Ought to Pass with Amendment. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: This bill allows the school board to designate an alternate member of the board to attend a budget meeting in the event a regular member can not make it. In such a case the alternate will have the same authority as the chosen or elected member.

The amendment sets the same standards for the board of commissioners and the board of selectmen.

AMENDMENT TO HB 737

Amend the title of the bill by replacing it with the following:

AN ACT

relative to appointing alternates for certain members
on municipal budget committees.

Amend the bill by replacing section 1 with the following:

1 Alternate for School Board Member. Amend RSA 32:2 to read as follows;

32:2 Budget Committee. The budget committee shall consist of 3, 6, 9 or 12 members-at-large as the meeting adopting the provisions hereof shall by vote determine, and one member chosen by the school board of each school district wholly within said town, and one member of the board of commissioners of each village district wholly within said town to be designated by said board, and one member of the board of selectmen to be designated by said board. In the case of the member chosen by the school board, board of commissioners, or board of selectmen, the member may be represented at meetings by an alternate school board member, board of commissioners member, or board of selectmen member designated by the appropriate board, who shall have the same authority as the chosen member. The members-at-large may either be appointed by the moderator or elected by the town meeting as any annual meeting may by vote determine under a proper article in the warrant for said meeting; provided, however, the members-at-large shall have domiciles in said town at time of election or appointment and provided, further, that

no selectman, town manager, member of the school board, village district commissioner or a full-time employee of the town, village district, district commissioner or a full-time employee of the town, village district, school district or other associated agency shall serve as a member-at-large. One of said members-at-large shall be elected by the budget committee as chairman. If said members-at-large are elected at the town meeting it shall be by majority vote by ballot or acclamation of those present and voting, except as provided in RSA 32:3. Where said members-at-large are appointive such appointments shall be made within 30 days after the annual town meeting. One-third of the members-at-large shall hold office for one year, 1/3 for 2 years, and 1/3 for 3 years and each year thereafter 1/3 shall be elected or appointed for a term of 3 years and until their successors are elected or appointed and qualified. Vacancies in the membership-at-large shall be filled by appointment by the moderator and such appointment shall be made within 5 days from the creation of the vacancy. Such appointees shall hold office until the next annual town meeting. The members selected by the school board, the village district commissioners and the selectmen shall hold office for one year and until their successors are qualified. A member-at-large shall cease to hold office immediately upon missing 4 consecutive scheduled or announced meetings without being excused by the chairman or when a member ceases to have a domicile in said town. Upon the happening of either occurrence, the chairman shall request the moderator to fill the vacancy.

AMENDED ANALYSIS

This bill adds the provision to RSA 32:2 that in the case of the member of a municipal budget committee chosen by the school board, board of commissioners, or board of selectmen, that member may be represented at meetings by an alternate school board, board of commissioners, or board selectmen member designated by the appropriate board. The alternate has the same authority as the chosen member.

Amendment adopted. Ordered to Third Reading.

HB 863-FN-A, relative to an intrastate computer system within the division of state police to record outstanding arrest warrants for misdemeanors establishing a police communications specialist position with the division of state police and making an appropriation therefor. Ought to Pass with Amendment. Senator Pressly for the Committee.

SENATOR PRESSLY: This is basically a national crime information center. The Senate amendment, upon recommendation of counsel, changes the one word "malicious" to the words "the result of gross negligence or an intentional act". It was the feeling of the committee, unanimously, that this was a positive and a helpful step for the State of New Hampshire.

AMENDMENT TO HB 863-FN-A

Amend RSA 106-B:14-a as inserted by section 1 of the bill by replacing it with the following:

106-B:14-a Intrastate Misdemeanors Recorded. The division of state police shall record and update on its computer system on a daily basis the names of all persons for whom there are outstanding arrest warrants for misdemeanors in this state, along with a statement of all arrest warrants for misdemeanors each person has pending. The information recorded shall be made available upon request to all local and state law enforcement agencies and officers. The department of safety and its employees and agents shall not be held liable for errors of omission or commission in the recording and maintenance of this information unless the error is shown to be the result of gross negligence or an intentional act.

Amendment adopted. Referred to Finance (Rule #24)

HB 1053-FN, establishing the position of chief boiler inspector. Ought to Pass. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: This bill was introduced on behalf of the department of labor. It did so in order to bring the state in conformity with other states that also have a boiler law. At present, most boilers are inspected by the insurance company, who also writes the insurance for the same. That inspector then sends a carbon of the certificate to the state. He generally works for the company to bring the boiler to a standard of insurability, with his company. The state, currently, has one inspector who is overworked and who can not possibly cover the entire state, as well as review the paperwork sent by the other inspectors.

Adopted. Ordered to Third Reading.

HB 1193-FN, relative to chiropractic and making an appropriation therefor. Ought to Pass. Senator Freese for the Committee.

SENATOR FREESE: This is a bill of miracles. Ever since I've been in the Senate we've had proposed pieces of legislation in here that had to do with the chiropractic. This year is no exception to that, but for the first time I saw the straights and the mixes sitting together at a table in front of the committee, agreeing. I think we should get this bill along as fast as we can before they change their minds.

What the bill really does is reestablishes their rights for rules and regulations; they are still attached to the health and human services and the committee recommends ought to pass.

SENATOR PODLES: Senator Freese, can you assure us that if we pass this bill the problem is going to be solved between the two parties?

SENATOR FREESE: Senator Podles, let me answer you this way; it looks like that would be the case, but I don't guarantee a thing.

SENATOR WHITE: I have a mixer in my town and he's the only one I've ever gone to, but I always supported the straights because I thought we were going to do something that's fair. I did go and speak to him last week and asked him what he felt about the bill. He said the problem was they were realizing that their profession was being hurt by this continual bickering and they finally have agreed that this will be the final bill we see and I said I certainly hope so. So, I was pleased to hear that from his standpoint.

SENATOR NELSON: Senator Freese, I was wondering if you could tell me if there's a chiropractic board and how many members on that board?

SENATOR FREESE: This reestablishes the chiropractic board and the same membership that existed previously prevails today, if this bill passes.

SENATOR NELSON: How many chiropractics on the board? Of whom is the board made up of?

SENATOR FREESE: I think that's on page 3 of the proposed legislation and I think, Senator Nelson, they're just reinstating the board as the way it was in numbers and in time.

SENATOR DUPONT: I just rise for no other purpose other than to say that I hope this debate is finally over once and for all. Actually, I'd like some members of the Senate to pat me on the back for sun-

setting the chiropractic board last year so that this ultimate solution of the problem is before you today and I hope, for whomever may sit in this body in future years, that they never have to go through the chiropractic debates that we've gone through in the past. And I applaud Senator Freese and his committee for finally getting us to this point and urge everyone to pass this so we don't have to look at it again.

Senator Blaisdell moved to waive reference to Finance under Rule 24.

Adopted.

Adopted. Ordered to Third Reading.

HB 1151, relative to licensing pharmacists. Ought to Pass. Senator Delahunt for the Committee.

SENATOR DELAHUNTY: All this bill does is clarifies the internship requirements and sets standards for continuing education within the field.

Adopted. Ordered to Third Reading.

HB 814-FN, relative to the fines imposed by and the staff of the pharmacy board. Ought to Pass with Amendment. Senator Freese for the Committee.

SENATOR FREESE: This original bill contains two parts. The first part deals with the request for an executive secretary for the pharmacy board. Because of the legislation that we passed last year, the pharmacy board now has a responsibility of licensing wholesalers and manufacturers of drugs. This is a new responsibility and the board feels they need this extra employee. The second part of the bill deals with fines. Up until this time, the pharmacy board could only reprimand, suspend, limit or restrict a license, revoke a license, require continuing education. This bill and the amendment would merely give them one more option and that is of being able to fine a licensee or a permit holder or both. Both the pharmacy board and the New Hampshire Pharmacy Association are in favor of the bill and the amendment and they feel that it will up the money by increasing their fees in the future. The committee reports this out ought to pass with amendment.

AMENDMENT TO HB 814-FN

Amend RSA 318:29, IV(d) as inserted by section 2 of the bill to read as follows:

(d) By imposition of a fine on the licensee and the permit holder or on the licensee or the permit holder for misconduct; or

AMENDED ANALYSIS

As amended, this bill authorizes the board of pharmacy to employ one person to serve as executive secretary to perform the administrative functions of the board.

As amended, the bill also authorizes the board of pharmacy, as part of its disciplinary powers, to impose fines on licensees and permit holders or on licensees or permit holders for misconduct.

This bill was requested by the board of pharmacy.

Amendment adopted. Referred to Finance (Rule #24)

HB 1020, relative to occupational therapists and occupational therapy assistants. Ought to Pass with Amendment. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: The original part of this bill is more of a housekeeping bill as a recodification of the occupational therapy act that was first put on the books in 1977.

The amendment deals with an appropriation, which the House committee thought was in the original bill, but was inadvertently left out. It allows for \$50 per diem expenditures for the advisory committee members.

AMENDMENT TO HB 1020-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to occupational therapists and occupational therapy assistants and making an appropriation therefor.

Amend the bill by replacing all after section 1 with the following:

2 Appropriation. The sum of \$2,400 is hereby appropriated to the board of registration in medicine for the biennium ending June 30, 1989, for the purpose of compensating members of the occupational therapy advisory committee established under RSA 326-C:12. The

governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

3 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

The bill, as amended, revises the chapter for the licensure and regulation of the practice of occupational therapy in New Hampshire. It authorizes the board of registration in medicine to license occupational therapists and occupational therapy assistants initially, and provides for temporary, renewal and endorsement licenses. It establishes academic and field experience requirements for licensure, and continuing education and competency requirements for license renewal.

The bill requires written authorization from a licensed physician prior to provision of occupational therapy treatment services by licensees under the chapter.

The bill defines the duties of the advisory committee to assist the board in reviewing applications for licenses, and in administering disciplinary actions against licensees and persons attempting to practice without licenses. The bill appropriates \$2,400 to the board of registration in medicine for the purpose of paying \$50 per diem to committee members for meetings.

The bill establishes penalties for the violation of provisions of the chapter or rules issued under it, and provides for an appeals process from adverse decisions of the board.

Amendment adopted. Ordered to Third Reading.

HB 748-FN-A, relative to the division of historical resources, creating the position of state curator, and making an appropriation therefor. Ought to Pass with Amendment. Senator Delahunt for the Committee.

SENATOR DELAHUNTY: The state curator will be responsible for taking and maintaining an inventory of properties and assets that belong to the State and also the storage and protection of the same inventory.

AMENDMENT TO HB 748-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the division of historical resources, creating the position of state curator, and creating the position of assistant director of state planning and making an appropriation therefor.

Amend the bill by replacing all after section 7 with the following:

8 New Paragraph; Assistant Director; Office of State Planning. Amend RSA 4-C:1 by inserting after paragraph I the following new paragraph:

I-a. The director of the office of state planning may, with the approval of the governor, appoint an assistant director who shall serve at the pleasure of the governor. The assistant director shall be qualified by reason of education and experience. The assistant director shall perform all duties assigned by the director and shall act for the director whenever he is absent or incapacitated for any cause, or when there is a vacancy in the office of the director.

9 Appropriations.

I. There is appropriated the sum of \$25,000 for the fiscal year ending June 30, 1989, to the department of libraries, arts and historical resources to be used for the salary of the state curator. This sum shall be in addition to any available federal matching funds. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

II. In addition to any other sums appropriated to PAU 01, 03, 01, 03, 01, office of the governor, state planning administration, the following sums are hereby appropriated for the fiscal year ending June 30, 1989:

12 Assistant Director	37,795
60 Benefits	8,315

The governor is authorized to draw his warrant for said sums out of any money in the treasury not otherwise appropriated.

10 Effective Date. This act shall take effect July 1, 1988.

AMENDED ANALYSIS

The bill, as amended, creates the position of state curator within the division of historical resources, department of libraries, arts and historical resources and appropriates \$25,000 for fiscal year 1989 to be used for the salary for the position. That sum is to be augmented with federal matching funds.

The bill also clarifies specific functions of the division of historical resources relative to objects of historical significance and makes the

director of the division of historical resources responsible for the location and care of memorial objects at certain sites.

The bill, as amended, creates the position of assistant director of the office of state planning, and appropriates funds for salary and benefits for the position for fiscal year 1989.

Amendment adopted. Referred to Finance (Rule #24)

HB 842, establishing a committee to study regulating development in unincorporated places and unorganized places and placing a moratorium on sewage or waste disposal system construction in unincorporated & unorganized places. Ought to Pass with Amendment. Senator St. Jean for the Committee.

SENATOR ST. JEAN: HB 842 deals with development of unincorporated and unorganized places. The amendment which appears on page 10 and 11 was proposed by Senator Bond and it's something that all the north country Reps. and Senators agreed to. In section three of the bill it deals with development that's ongoing up there. It involves a golf course and Senator Freese came in with an amendment to protect that development. We all agreed that this is a good piece of legislation and we urge passage.

AMENDMENT TO HB 842

Amend the title of the bill by replacing it with the following:

AN ACT

granting county commissioners planning and
zoning authority in unincorporated and
unorganized places.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Planning and Zoning in Unincorporated Places. Amend RSA 28 by inserting after section 7-b the following new section:

28:7-c Planning and Zoning in Unincorporated Places.

I. For each unincorporated or unorganized place, the county in which it is located and its commissioners shall have the same responsibilities and powers to exercise planning, zoning, subdivision and related regulations as a town and its governing body and local land use boards. Regulations shall be exercised in accordance with the

provisions of RSA 672-677 to the extent practical, in order to insure reasonable development and planning in the unincorporated or unorganized place.

II. All actions taken by the county commissioners pursuant to paragraph I shall be subject to the approval of the county conventions.

2 New Paragraph; County Conventions; Additional Power. Amend RSA 24:13 by inserting after paragraph II the following new paragraph:

III. The county convention shall have the power to approve any action of the county commissioners under RSA 28:7-c, I.

3 Application. Notwithstanding any provision of this act to the contrary, anyone who has submitted an application to the state of New Hampshire or to any office, agency, commission or board thereof, for subdivision approval, prior to the effective date of this act, shall be exempt from the provisions of this act and shall also be exempt from any subsequent planning, zoning, subdivision, and or related regulations adopted by the county or its commissioners.

4 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

As amended, this bill gives county commissioners the same responsibilities and powers to exercise planning, zoning, subdivision and related regulations in unorganized or unincorporated places as towns and their governing bodies and local land use boards may now exercise locally. All actions taken by the county commissioners must be approved by the county convention.

As amended, anyone who has submitted an application to the state for subdivision approval prior to the effective date of the act is exempt from the provisions of the act as well as subsequent actions of a county or its commissioners relative to planning, zoning, subdivision, and related regulations.

Amendment adopted. Ordered to Third Reading.

HB 447, relative to the right to know law. Interim Study Senator Nelson for the Committee.

SENATOR NELSON: HB 447 is basically the same as HB 727, which was heard by the Senate Judiciary committee last year. The committee felt that this was an important bill, but is meriting further study. Senator Podles has appointed Senator Shelia Roberge and Senator Nelson to do further study on this bill and welcomes the input of any Senators.

Adopted.

HB 611-FN, relative to administrative forfeiture of certain items used in connection with drug offenses. Ought to Pass with Amendment. Senator Podles for the Committee.

SENATOR PODLES: HB 611 increases the revolving drug forfeiture fund maximum from \$200,000 to \$300,000. It also provides a new distribution formula for the attorney general to allocate the proceeds of the forfeitures covered under this law and all seizures over the \$300,000 limit will go to the general fund. This bill gives a bigger share to the locals. The current share is 10% and under this bill, municipalities and county law enforcement officers will receive 45% where the responsibility for seizure was located. There is also an amendment to this bill and I will defer that to Senator White.

SENATOR WHITE: I apologize, I was just trying to find out but we have had some new information come to us in regards to this bill and when we heard the bill, we were very concerned about the ability of the attorney general to seize administratively some of the items. We have just learned, currently under federal law, they can now do it, so what's happening is the local people are using the federal law to confiscate the money and it goes to the federal government. Under this law it would be done at a state level and the money would come into the general funds. You're talking about big drug enforcement. You're not talking the small enforcement, you're talking the large ones where they've got hundreds of thousands of dollars that might just be sitting in the front seat of the car. They could go right in and seize it at that point.

The other concern that we had in the committee, was that there'd be no redress if the property was taken. They couldn't get it back. But, in fact, they can petition to get it back if it was a wrongful seizure. I don't think the attorney general will be picking up anyone just because he has a marijuana in the front seat, I don't think they will possess his car. If this doesn't work, the good thing is we'll be back next year and we can find out what they have done and we can address it at that point. But, we would urge your not supporting the committee amendment, which took out that extra arm of law enforcement and I think we need it. As you can see, we're really capturing quite a bit of money from the drug forfeiture, we're beginning to put a small crimp in their style and they're expecting this year somewhere between five and ten million dollars that will come into the general fund. Some of that will be going back to the locals to help

them enforce the drug enforcement in their particular communities. So, it's a good bill, it's a strengthening of what we had and since it started back in the 80's, we have greatly increased the amount of money that we are taking. So, I'd urge you not to support the committee amendment but to support the bill as just plain ought to pass.

SENATOR NELSON: Senator White, I'd like a little more information. This is the first I heard of it and I sit in on the committee.

SENATOR WHITE: That's why I was detained out here talking with Attorney Pfundstein and on page 7 of the bill, under D, it indicates a person; we were told they could not get their property back, if you recall. In fact, under D, a person claiming an interest in the property may file petition for remission or mitigation of forfeiture or file a claim.

Senator Nelson moved to pass over HB 611-FN

Adopted.

HB 401-FN, relative to video tape depositions. Ought to Pass with Amendment. Senator Podles for the Committee.

SENATOR PODLES: HB 401 corrects what was originally intended in SB 2, which was passed in 1985. It passed the House, it passed the Senate, but it got in the statutes incorrectly, so we're now correcting that part. The bill also removes the 13 year old witnesses or victims from video taping and only the court rules that there will be video taping. The defendant's attorney will have no say, the state's attorney, the child's attorney, the child's guardian or the victim. So, the amendment on page 7 will correct that and it requires witnesses under 12 years of age to be video taped in any criminal case unless the court finds that it is in the interest of justice to allow testimony in open court. A provision of SB 2 of 1985 also requested that the supreme court make rules necessary to implement the provisions of the video tape statute. This was never done. Video taping is done differently in every courtroom, there is no uniformity and there are problems.

The amendment to HB 401 is again requesting that the supreme court make rules necessary to implement the provision of that statute within 60 days of the effective date of this act. The committee recommends ought to pass with amendment.

SENATOR DUPONT: Having worked on SB 2 I just had a question relative to the supreme court not setting up rules. I think at the time

we did that, we put it in their court because we felt those court procedures weren't something that we should set up as part of this bill. Did you have any conversation with them as to why that was never done?

SENATOR PODLES: I did write a letter to the chief justice of the supreme court and they were going to take it under advisement.

SENATOR KRASKER: Senator Podles, there is a video taping room that is now being used in Portsmouth and does this bill restrict it at all, their ability to use it to take video tapes from minors?

SENATOR PODLES: No, it does not restrict it in any way. I understand that every courtroom in the state uses that video taping differently. What we're asking for is uniformity in every courtroom. We were told that some of the tapes are not good quality and there should be a reason why it's not good quality or where the victim should sit, where the defendant should sit. These are the kind of rules that they should promulgate.

AMENDMENT TO HB 401-FN

Amend RSA 517:13-a as inserted by section 2 of the bill by replacing it with the following:

517:13-a Video Tape Trial Deposition Authorized.

I. In any criminal case, the state may move to take a video tape trial deposition of any witness, including the victim, who was 16 years of age or under at the time of the alleged offense. Any victim or other witness who was 16 years of age or under at the time of the offense may also move to take a video tape trial deposition of his testimony. The court shall order a video tape trial deposition if it finds by a preponderance of the evidence that:

(a) The child will suffer emotional or mental strain if required to testify in open court; or

(b) Further delay will impair the child's ability to recall and relate the facts of the alleged offense.

II. In any criminal case, if a victim or other witness is under 12 years of age, a video tape deposition shall be taken unless the court finds, after a hearing, by the preponderance of the evidence, that it is in the interest of justice to allow testimony in open court.

III. A video tape trial deposition taken pursuant to this section shall be conducted before the judge or court-appointed master, at such a place as ordered by the court, in the presence of the prosecutors, the defendant and his attorneys, and such other persons as the

court allows. Examination and cross-examination of the child shall proceed in the same manner as permitted at trial. Such deposition shall be admissible into evidence at trial in lieu of any other testimony by the child.

IV. Unless otherwise ordered by the court for good cause shown, no victim or witness whose deposition is taken pursuant to this section shall be required to appear or testify at trial.

V. Any witness who is 16 years of age or under shall be allowed to have either his parent or any other appropriate adult, or both, present during his testimony.

VI. The supreme court shall make any rules necessary to implement the provisions of this section.

Amend the bill by replacing section 3 with the following:

3 Supreme Court; Rulemaking. The supreme court shall make any rules necessary to implement the provisions of RSA 517:13-a within 60 days of the effective date of this act.

4 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill, as amended, prohibits the taking of discovery depositions in criminal cases of any victim or witness who was 16 years of age or under at the time of the alleged offense. Currently, discovery depositions may be taken of a victim or witness who was under 16 years of age at the time of the alleged criminal offense.

This bill, as amended, applies the presumption that, in criminal cases, a child's video tape deposition will be taken to children under 12 instead of children under 13. The bill also restricts those parties who may move for a video tape trial deposition to be taken and used at trial to the state or the witness himself. Currently any party, including the defendant, may move to take a video tape trial deposition.

Amendment adopted. Ordered to Third Reading.

HB 884, relative to payment of rent by tenants. Ought to Pass. Senator Pressly for the Committee.

SENATOR PRESSLY: This bill requires that when a landlord gives notice to a tenant that he include within the notice the ability for the person to pay within seven days. It also requires that the local municipal vouchers be accepted as proper payment for rent. There

were two public hearings held. Not one person spoke against it. This is a concept that is supported by the board of realtors. It is seen by the committee as a positive step in the housing market.

Adopted. Ordered to Third Reading.

HB 811-FN-A, establishing a task force to study the issue of spousal impoverishment of victims of Alzheimer's disease and relative disorders and making an appropriation therefor. Ought to Pass with Amendment. Senator Podles for the Committee.

SENATOR PODLES: HB 811 establishes a task force to study the issues of spousal impoverishment of victims of Alzheimer's disease and related disorders, its impact and to make recommendations to what kinds of things we might do as a state. Fairly recent statistics have shown that 50 - 60% of nursing home patients have Alzheimer's. It is one of the largest killers of adults and there is no cure. The bill appropriates \$4,000 for actuarial expenses.

The amendment adds the word designee to the Senate member of the committee, meaning that you can appoint a staff member to sit in on some of the meetings. The committee recommends ought to pass with amendment.

SENATOR JOHNSON: Senator Podles, I appreciate the importance in this special nature of the Alzheimer's disease, but isn't it true that other killing and expensive diseases, such as cancer, could also lead to spousal impoverishment?

SENATOR PODLES: Yes, that is true, but I guess this is a big thing. There is no cure for this and there is this task to be appointed.

SENATOR JOHNSON: So, the idea of the special, incurable, expensive nature of the Alzheimer's disease leads to the need for this specialized inquiry?

SENATOR PODLES: In a way yes.

AMENDMENT TO HB 811-FN-A

Amend subparagraph I(b) as inserted by section 2 of the bill by replacing it with the following:

(b) One member of the senate from the public institutions, health and human services committee or designee, appointed by the president of the senate.

Amendment adopted. Referred to Finance (Rule #24)

HB 905, relative to surrogate parents appointed for educationally handicapped children. Ought to Pass with Amendment. Senator McLane for the Committee.

SENATOR MCLANE: This bill was supported by the department and by the courts. There are 20 to 30 cases each year of handicapped children without parents, who are the responsibilities of the state. They, by law, have to have an IEP, or an individual education program, approved by the parent and in this case, surrogate parent. The department prepares a list of those willing to serve as surrogate parents to approve these educational programs. They do the work anyway and it seemed unnecessary for the court to become involved in a procedure which is already working well without necessitating much effort on the part of the courts.

AMENDMENT TO HB 905

Amend the bill by replacing section 4 with the following:

4 Effective Date. This act shall take effect 30 days after its passage.

Amendment adopted. Ordered to Third Reading.

HB 919-FN, relative to the matching requirements for vocational rehabilitation programs. Ought to Pass. Senator White for the Committee.

SENATOR WHITE: Basically this bill was requested by the division of vocational rehabilitation and it just provides for the percentage of state funds that are necessary to match the federal funds. It is a changing situation so that rather than put in an exact amount, we put in that it would be no less than the percentage established by federal law. If it does change in the future we're covered without having to come in with a new bill. We urge ought to pass.

Adopted. Referred to Finance (Rule #24).

HB 1194, relative to the emergency treatment of step-children. Ought to Pass with Amendment. Senator Krasker for the Committee.

SENATOR KRASKER: HB 1194 corrects what seems to be an oversight in an existing law. We now, in New Hampshire, have a law that presumes joint custody in divorce cases. This bill would allow

the non-custodial step-parent to authorize emergency medical treatment for a child, if the two custodial parents are not available to provide that authorization. We had testimony at our hearing, there was a case where a man who lived with his wife and her son, his step-son, and was not able to authorize care for the step-son in an emergency situation, when his wife became incapacitated. The custodial father lived out of state and it really put the child at risk because no one was immediately able to authorize any care. So, this bill, which has been amended to take effect on passage, will allow for this authority for 30 days.

AMENDMENT TO HB 1194

Amend RSA 458:17-c, I(b), as inserted by section 1 of the bill by replacing it with the following:

(b) There is no other parent of custody; or, if there is another parent of custody, that parent cannot be located, and in the opinion of the treating physician, circumstances make it necessary to make a decision regarding treatment immediately.

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect upon its passage.

Amendment adopted. Ordered to Third Reading.

HB 611-FN, relative to administrative forfeiture of certain items used in connection with drug offenses. Ought to Pass with Amendment. Senator Podles for the Committee.

SENATOR NELSON: I just would like to make it clear to everybody why I'm going to make this motion. I did attend the hearing on this bill and I will tell you that on this drug forfeiture bill, the first part of the bill is the best. It is an improvement we're making in the State of New Hampshire, it is an attack on drugs in the state and it is something we need to do.

The second part of the bill is a brand new part of the bill. It makes major changes in the laws of the State of New Hampshire. It now will take away the person's right to go to court and it will allow the attorney general to decide whether the person has to go to court or not go to court for \$25,000 or \$50,000 or less. I understand that the committee worked very hard, and I worked with them, and the committee had the privilege of receiving new information. I was a little

late, I guess, in getting into the room and was unable to get that information. I feel because the law is a major change, it is just too quickly, at this time, to do it.

SENATOR CHANDLER: Senator Nelson, as you know, I'm on that committee, too. Where did that amendment come from, who approved it?

SENATOR NELSON: Sir, it's not an amendment, I guess. It's what's happening is that we amended the bill, we took off this new section and new information has come, so now what the committee is suggesting is that we don't support the committee report and that we let the bill pass as it is.

SENATOR CHANDLER: We don't accept their amendment then, is that what you mean?

SENATOR NELSON: Right. That's what they say.

SENATOR DUPONT: Senator White, watching what is happening around the state, and I don't think there is a case where you could pick up a newspaper recently without at least one drug related, either a murder or serious, crime. Is it my understanding that the bill, without the amendment, is what the law enforcement community in this state needs to fight the drug problem that we have in the state, at the present time?

SENATOR WHITE: It would greatly assist them if we kept the bill intact, as it came over to us. Apparently, there'd been a lot of work done by the House. The law enforcement community and the attorney general feel that with that it gives them an extra added punch to collect money, property, etc. that is there. So, yes they do support it.

SENATOR DUPONT: Senator, could it be fair to say that at the present time they're losing the war against drugs and this further strengthens their hand in dealing with that problem?

SENATOR WHITE: It absolutely strengthens their hand, yes.

SENATOR PODLES: First of all, we don't have a state statute for the forfeitures of drugs. We have to look to the federal government and when we do that, they are always awarded a large fraction of the forfeit property. The federal government takes most of it and the state doesn't have anything. This is why they have now come up with a state statute and I would urge all of you to vote for this. We did

have a hearing, we eliminated that part of the bill only because we got some wrong information. We now look at it differently and I urge you to pass the whole bill.

SENATOR NELSON: Senator Dupont, would you believe that we all are here to fight the war on drugs, but I think when the question comes, when we question the rights of the people of the state, we don't want to do it at their expense? That's what the question is.

SENATOR NELSON: Senator, I would believe that that is your total concern and I take that very seriously, too.

SENATOR WHITE: Just briefly, something that Senator Nelson has said, we were concerned in the committee that the individual would not be able to reclaim his property. However, it's been pointed out to us that they can reclaim their property and get it back. That was our concern, that they were going to go against some small individual and take all his property and he'd never have a chance to get it back. But, he can get it back and this does follow federal guidelines, as Senator Podles says, and it will be good for the state.

Senator Nelson moved to recommit HB 611-FN.

SENATOR DUPONT: As much as I respect the good intentions of Senator Nelson, I rise in opposition of the motion to recommit. I think it's very, very clear at this point in time that the message that this Senate needs to send to the violators of the laws of the State of New Hampshire relative to drugs is that we intend to get tougher, not easier on them. This bill, basically, I think, puts into play some important new law that is needed by our law enforcement community in this state to win this important war. I read the paper every morning and sit there really with growing concern about the direction we're headed in in this state and I think certainly this bill is just another tool to help win that battle. So, I urge my colleagues not to support the recommit motion on the floor.

SENATOR CHANDLER: The amendment is on page 7, way down the bottom is the amended analysis. Reading the analysis, if anybody wants to read it at the bottom of the page; it's only three lines. Seems to me that that would weaken the state's case in trying to prosecute a drug user because it would prohibit taking depositions from any victim or witness who are 16 years of age or under at the time of the alleged offense. I think, at the present time, they can take those depositions and this would stop them from taking depositions, if I interpret it right, and it seems to me that this weakens the law instead of strengthening it.

Motion lost.

Amendment failed.

Question: Ought to Pass.

Adopted. Ordered to Third Reading.

RECONSIDERATION

Senator Dupont moved reconsideration on HB 824, relative to area school district agreements, and have the bill be put on second reading at the present time.

Adopted.

Referred to Finance (Rule #24)

TAKEN FROM THE TABLE.

Senator Johnson moved to take HB 734 off the table.

Adopted.

HB 734, relative to posting of bond by administrators of estates. Ought to Pass with Amendment. Senator Johnson for the Committee.

SENATOR JOHNSON: The procedure that I'm recommending to the body at this time was recommended by our Senate counsel. The HB 734, as it came over from the House, provided that a probate judge could waive the requirement for posting of a bond when the administrator of an estate was the sole heir and the second provision was that it had a gross value of less than \$50,000. The Public Affairs committee amendment, appearing in the March 18th calendar, amended HB 734 and called for the potential waiver at the discretion of a judge of probate under two different circumstances. One, when the administrator of the deceased persons estate is the sole heir of the deceased person. In other words, there is really no requirement for posting of bond when the administrator is the sole heir. The second circumstance recommended was when the estate has a gross value of less than \$50,000, of property specified in RSA 554:5, which has to do with property with an intrinsic value, not an extrinsic value. Now, the amendment that I've just described should be adopted. The committee recommends the amendment which I've just described, which also appears in the calendar.

Amendment to HB 734

Amend the bill by replacing section 1 with the following:

1 Bond Waived In Certain Cases. RSA 553:13, III is repealed and reenacted to read as follows:

III. In the discretion of the judge of probate, the requirements for the giving of bond and sureties may be waived:

(a) When the administrator of the deceased person's estate is the sole heir of the deceased person.

(b) When the estate has a gross value of less than \$50,000 exclusive of property specified in RSA 554:5.

AMENDED ANALYSIS

This bill, as amended, allows the probate judge to waive the requirement for posting of bond by the administrator of a deceased person's estate when the administrator is the sole heir of the deceased person or when the estate has a gross value of less than \$50,000.

Amendment adopted.

Senator Johnson offered a floor amendment.

SENATOR JOHNSON: When we adopted the amendment, just voted upon there, it actually makes the roman two above it redundant and unnecessary and the floor amendment clears this up now.

Floor Amendment to HB 734

Amend the bill by replacing section 2 with the following:

2 Repeal. RSA 553:13, II, relative to waiver of sureties, is repealed.

3 Effective Date. This act shall take effect January 1, 1989.

Floor Amendment adopted. Ordered to Third Reading.

HOUSE MESSAGE

HOUSE REQUESTS CONCURRENCE WITH AMENDMENTS

SB 242-FN, directing the state treasurer to loan funds to the towns of Exeter and Monroe for construction of sewage treatment facilities. (see House Journal)

Senator Preston moved to concur.

Adopted.

SB 284-FN-A, relative to exemption from tolls on the New Hampshire turnpike system. (see House Journal)

Senator Preston moved to concur.

Adopted.

ENROLLED BILLS REPORT

HB 252, relative to the rate of the business profits tax.

HB 781, amending the uniform limited partnership act and making reference changes in the disclosure of security takeover act.

HB 859, making an appropriation for the purchase of a building for the division for children and youth services.

HB 874, permitting every county attorney to appoint an assistant county attorney.

HB 1042, relative to road toll laws and the regional fuel tax agreement.

HB 1044, relative to the minimum age for operating a power boat in the state.

HB 1134, relative to walking disability motor vehicle plates, cards, and parking privileges.

HB 1177, relative to qualifying for the veterans' and elderly property tax exemptions and filing an inventory form and relative to naming a bridge for Korean and Vietnam era veterans.

SB 269, relative to indoor air quality in certain state buildings.

SB 318, establishing a committee to study the feasibility of establishing a New Hampshire zoological park.

SB 325, relative to providing support to families coping with a severely disabled child or young adult family member, using funds already appropriated.

SB 354, establishing a Connecticut River bridge advisory commission.

SB 253, relative to the length of vehicles.

SB 268, relative to litigation of small claims.

SB 273, relative to capital murder.

SB 287, relative to police assistance from other states.

RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, March 31, 1988 at 1:00 p.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 885, relative to establishing a boat safety fund; and requiring a boat safety course or administrative fine for offenses while boating.

HB 902, relative to county foresters.

HB 1201, authorizing school districts to teach New Hampshire's cultural heritage and ethnic history in school.

HB 1154, permitting the Waterville Estates village district to exceed its debt limitation.

HB 737, relative to appointing alternates for certain members on municipal budget committees.

HB 1053-FN, establishing the position of chief boiler inspector.

HB 1193-FN, relative to chiropractic and making an appropriation therefor.

HB 1151, relative to licensing pharmacists.

HB 1020, relative to occupational therapists and occupational therapy assistants and making an appropriation therefor.

HB 842, granting county commissioners planning and zoning authority in unincorporated and unorganized places.

HB 401-FN, relative to video tape depositions.

HB 884, relative to payment of rent by tenants.

HB 905, relative to surrogate parents appointed for educationally handicapped children.

HB 1194, relative to the emergency treatment of step-children.

HB 611-FN, relative to forfeiture of certain items used in connection with drug offenses.

HB 734, relative to posting of bond by administrators of estates.

Senator Dupont moved that the Senate adjourn.

Adopted.

Adjournment.

Thursday, March 31, 1988

The Senate met at 1:00 p.m.

A quorum was present.

Senator Nelson in the Chair.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, remember me when thou comest into thy Kingdom and Jesus said to Demas upon the Cross - "Today, thou shalt be with Me in Paradise". We all look towards redemption during the Holy Week with its Day of the Last Supper and the doom and despair of Good Friday - the two days of the Passover or the Exodus - the greatest day of the Jewish people lasting seven days. The Resurrection, the strife was over and the battle over death has no more dominion over us!

God bless you all and your families as we too make our Pilgrimage through this world with its trials and tribulations towards the Joy and Peace with its newness of life.

Amen

Senator Chandler led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

SENATOR PRESTON: We have a very special person sitting with us today and was recognized elsewhere. I would just like to recognize him and have it as part of the record.

The Dean of the New Hampshire Senate, Sen. Clesson J. Blaisdell of Keene, was honored the other day, the 1988 award for Outstanding Contribution to the New Hampshire Public Education. The award was presented by the New Hampshire Profile Chapter of Phi Delta Kappa at Plymouth State College, at its annual education conference held on the campus. In presenting the award, Chancellor Claire VanUmmersen said: "It is with gratitude and pleasure that I present to you the Phi Delta Kappa Award for your manifold distinguished services on behalf of education at all levels. You have been a tireless supporter, instrumental in improving benefits for teachers, an advocate for catastrophic aid, building aid, the equitable distribution of state aid and an advocate for higher education. You have served as a lecturer on the role of government. You have been a leader and faithful promoter of the needs of education. Today we honor you and extend our thanks." Senator Blaisdell is completing his ninth two-year Senate term. He is Chairman of Senate Finance. The Senator is a former president of the New Hampshire Basketball Officials Association. He retired as an active participant after 38 years with sports. Senator Blaisdell is currently the Dean of the New Hampshire Senate and we're honored to serve with him in this chamber.

HOUSE MESSAGES

HOUSE CONCURS WITH SENATE AMENDMENT

HB 564-FN, authorizing any city or town to issue revenue bonds.

HB 753, reinstating the charter of Bethlehem Mink Farm, Inc., and the charter of James A. Smith Contracting, Inc.; and relative to revival of charters of dissolved nonprofit organizations.

HB 775, to revive the charter of the Fuller Foundation of New Hampshire, Inc., a nonprofit organization; and relative to revival of charters of dissolved nonprofit organizations.

HB 776, relative to the examination of jurors.

HB 947-FN, relative to school system pupil registration information.

HB 993, relative to the taking of beaver.

HB 1046-FN-A, relative to the distribution of tax on pari-mutuel pools.

HB 1063-FN, reviving the charter of KAPPA Sigma House, Inc., Jackson Ski Touring Foundation, Inc., and Granliden Community Association, Inc., nonprofit organizations and making certain changes in the voluntary corporations law.

HB 1123-FN, relative to senior justices and to the sentence review division.

HOUSE CONCURS

SB 290, relative to expenditures of funds from the highway surplus account.

SB 338, relative to a statewide plan for public and private transportation.

HOUSE REFUSES TO CONCUR

SB 285-FN-A, limiting toll increases on the New Hampshire turnpike system.

SB 353-FN, relative to motor vehicle plates for organizational vehicles.

HOUSE ADOPTED COMMITTEE OF CONFERENCE REPORT

HB 480, recodifying the county corrections laws.

HOUSE CONCURRED WITH ADOPTION OF SENATE AMENDMENT ON BILL RECALLED FROM THE GOVERNOR

SB 238-FN, relative to bail reform.

COMMITTEE REPORTS

HB 831-FN-A, relative to a one-time reimbursement for oil spill damage and making an appropriation therefor and relative to the administration of the oil pollution control fund. Ought to Pass. Senator Krasker for the Committee.

SENATOR KRASKER: HB 831 makes the one-time appropriation of \$20,000 from the oil pollution fund to reimburse a Mr. Edward Heafy of Dover, who I believe is a constituent of Senator Torr's, who suffered a loss of lobster pots and other equipment and damage to his boat from an unidentified oil slick in the Piscataqua River. Believing that a picture is worth a thousand words, Mr. Heafy brought a video tape of the damages as well as samples of the pollution in a jar. So, the committee was able to witness both the sight and the smell of the pollution. No evidence of the leak was found, although the Coast Guard reviewed the boat and gear and confirmed the damage, Mr. Heafy tried, through other means, to cover the loss and he couldn't do it. So, as a last resort he came to the legislature. I would urge the passage.

Senator Blaisdell moved to waive reference to Finance.

Adopted.

Adopted. Ordered to Third Reading.

HB 1089-FN, relative to clarifying and changing the penalties under certain forestry laws and relative to deceptive forestry business practices. Ought to Pass. Senator McLane for the Committee.

SENATOR MCLANE: This bill was put in by Representative Otto Oleson at the request of Jack Sargent from the state forester. It increases the penalty for disturbing or injuring trees and wood products that are standing. It makes sure that artificial bodies of water, such as Lake Francis and Lake Monroe, are included in the definition of proper forestry practices and it makes it a misdemeanor to engage in certain deceptive forestry practices. They are administrative changes mostly and it is at the request of the department.

Adopted. Ordered to Third Reading.

HB 985, relative to the penalty for littering from boats. Inexpedient to Legislate. Senator McLane for the Committee.

SENATOR MCLANE: The Dev. Rec. committee wanted to make very clear that in killing the next two bills we were not in any way trying to weaken the powers of safety services or to insure safe boating in our State. This bill called for a suspension of the boat registration for a month to be ordered by the courts. We felt that it would be far more appropriate to include littering as one of the penalties in the uniform recommendation of fines, which is being passed and con-

sidered by this legislature. We were also concerned that if this bill passed, that perhaps it would not be implemented any more than the present law is about taking away someone's driving license if they litter. We were told that there is a pamphlet passed out in great number by safety services and in that pamphlet it says; "littering of any sort, even a cigarette butt is as offensive and degrading to natural beauty. It is punishable as a misdemeanor, which means up to a year in jail and or \$1,000 fine." So, the day someone is fined a \$1,000 then we'll go on and think of another penalty.

Adopted.

HB 395, requiring the division of safety services, department of safety, to issue a copy of the state's safe boating publication. Inexpedient to Legislate. Senator Hounsell for the Committee.

SENATOR HOUNSELL: The bill would require the commissioner of safety to issue the boat safety publication, which is what I'm holding up here, to each registrant of a boat in the state. This publication would be issued at no charge to the registrar. We felt that although the idea is important, that it's being implemented as effectively as it can be and in fact there's more request for publications of these. We feel that you should vote this inexpedient because of enforcement problems and problems that might arise up in court if, for some reason, a person wasn't given this publication at the time that they registered their boat. We feel that this bill is not needed and we do urge you to adopt the motion of inexpedient.

Adopted.

HB 749, permitting persons qualified to hunt from motor vehicles to hunt from OHRV's and ATV's. Ought to Pass. Senator Preston for the Committee.

SENATOR PRESTON: This bill refers to OHRV's and ATV's as motor vehicles from which a qualified disabled person may hunt and it clarifies some of the wording it changes. This disabled permit used to pertain to just veterans and it's changed to persons and it affects about 6 to 8 people in the state.

Adopted. Ordered to Third Reading.

HB 883-FN, relative to resident and non resident wholesale marine species licenses. Ought to Pass. Senator Krasker for the Committee.

SENATOR KRASKER: HB 883 establishes a resident and a non-resident commercial wholesale license for the buying, processing, selling and transporting of marine species, excluding lobsters and crabs, within and without the state. But, it also closes a loophole which currently exists that allows dealers from other states to come in and buy off the boats and not record the sales. Except for the reporting of lobster, New Hampshire is the only state on the eastern seaboard which has no compulsory reporting of the other forms of marine life and with HB 883 the reporting will be required and I'd urge it's adoption.

Adopted. Ordered to Third Reading.

HB 207-FN, relative to the siting and permitting of solid and hazardous waste disposal facilities. Inexpedient to Legislate. Senator Krasker for the Committee.

SENATOR KRASKER: HB 207 came to the floor once before, if you'll remember. I had prepared an amendment which I thought would solve the problem that the committee had with this bill, which is relative to the siting and permitting of solid and hazardous waste disposal facilities. The immediate problem was transferral of ownership. Senator Hounsell was kind enough to recommit the bill to committee so that there could be a second hearing so that people who were interested in trying to resolve the problem could testify. We had the second hearing, I think we went around in circles, or at least I felt we did, that we proposed, had two different amendments that were going to be proposed that we thought would take care of the situation, but the sponsor came to the committee said no, I want the original bill. I have spoken to Representative Greene, from the Environment and Agriculture committee in the House; she would like in the next session the opportunity to act on this. I think she'll be working with Senator Hounsell to try and resolve the differences and so I would urge inexpedient at this time.

Adopted.

HB 886, relative to the board of trustees of the university system of New Hampshire. Interim Study Senator Hough for the Committee.

SENATOR HOUGH: Your committee on Education took public testimony on HB 886 and spent a considerable amount of time and deliberation in executive committee. As our collective, best judgement that this is significant enough so that it would behoove us to continue

to investigate this subject matter in the interim and have a conclusion in the next session that is more based on fact than emotion. We recommend interim study.

Adopted.

HB 467-FN, establishing a committee to study the allocation of funds and costs in the Tilton and Northfield union school district. Ought to Pass. Senator Bond for the Committee.

SENATOR BOND: HB 467 establishes a committee to study the allocation of funds and costs in the Tilton and Northfield school districts. This bill establishes a committee, which will be made up of a member from the school boards from each of the towns, a selectman from each town, a resident from each town. The focus will be to make recommendation as to how the funds and cost should be allocated between the two towns. The towns agree to this and the committee urges your support.

Adopted. Ordered to Third Reading.

Recess

Out of Recess

Senator Krasker in Chair.

HB 762-FN-A, making supplemental appropriations to the Fish & Game department. Ought to Pass. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: HB 762 appropriates \$325,000 from the fish and game fund to the fish and game department for computer services and to upgrade their radio equipment. The department of administrative services, division of information services, has taken on the task of computerizing their fish and game licenses. The \$212,500 is to reimburse the division of information services for work performed to date and to appropriate funds for annual computer and inhouse charges for a DIS through the biennium. The data entry contract is necessary because of the backlog of licensed sales required to be entered into the system. The department said that some of the radio equipment that's being replaced is 20 years old. The fish and game fund has a sufficient balance available to fund both of the bills being presented today.

Adopted. Ordered to Third Reading.

HB 843-FN-A, appropriating funds for the Northeast Rural Water Association for equipment, technical assistance and training to rural water systems. Ought to Pass. Senator McLane for the Committee.

SENATOR MCLANE: This bill appropriates \$27,400 to the department of environmental services for the Northeast Rural Water Association. Massachusetts and Vermont have already appropriated this amount of money. It will go to purchase equipment that measures things like how much chlorine there is in the water, for these rural water systems under 300 hookups. It was requested, obviously, by the DES.

Adopted. Ordered to Third Reading.

HB 893-FN-A, making a supplemental appropriation to the Fish & Game department. Ought to Pass. Senator Delahunt for the Committee.

SENATOR DELAHUNT: This bill appropriates \$40,000 to the game resources damage PAU and \$253,000 for game resources management and research. The game management programs for the first priority to the department if the department produced sufficient revenues after the last license increase. The sportsmen stated that they would support the license increase if the game management program could be expanded. They did support it and the cash is at the bank if sufficient funds were available.

Adopted. Ordered to Third Reading.

HB 1072-FN-A, appropriating funds to the department of environmental services for a water supply study. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: HB 1072 appropriates \$15,000 to the department of environmental services for use by a public/private coalition that has been formed to study the state's water supply system. The Senate Finance committee thought it appropriate that we pass this bill.

Adopted. Ordered to Third Reading.

HB 1107-FN-A, establishing a committee to study legislative employees' and constitutional officers' retirement benefits and making an appropriation therefor. Ought to Pass. Senator St. Jean for the Committee.

SENATOR ST. JEAN: HB 1107-FN-A deals with retirement benefits for legislative employees and constitutional officers. It sets up a seven member committee of which three members of the Senate are on the committee, one from Senate Finance and two from Executive Departments. It's going to study contributions into the retirement system, management appropriate for a mutual fund and third it will sign up an interface of the fund through the New Hampshire retirement system.

Adopted. Ordered to Third Reading.

HB 1080-FN-A, relative to nongame species and making a continuing appropriation therefor. Ought to Pass with Amendment. Senator Blaisdell for the Committee.

SENATOR BLAISDELL: The other morning in Finance when we execed these bills, we brought Senator Hounsell down to talk about his committee and what he did with these bills in Dev. Rec. He was pretty enthusiastic about HB 1080 and I'd like to defer to Senator Hounsell, just to speak to it for a couple of seconds, because I think it's a very important piece of legislation and obviously we want it to pass.

SENATOR HOUNSELL: Senator Blaisdell, I appreciate that courtesy for the second time this week. I certainly appreciate the courtesy that your committee extended to me last Tuesday when you allowed me to come in to tell you what I knew about these bills and I thank you again today for allowing me to speak about this bill.

This bill, I think, is one that we can all be proud of. We did pass this at one time on the policy side and it did go to Finance to check out to see if we could put \$50,000 from a general fund into the nongame species act. By doing this, what we will do is we will no longer be the only state in the union that does not put money towards preserving, managing and recognizing the importance of the nongame species. When this bill was before the Senate, after passing the House, it came without any funding and really, as a result of that, it wasn't really a bill. It was more of a statement. We were able to in our committee and this Senate endorsed that and now Finance has looked upon it favorably, set up a program, allow for the development of rules and to establish that there is a need for us to recognize that the food chain requires us to manage nongame species. \$50,000 will be made available to this fund from the general fund. \$50,000, which doesn't sound like a lot by itself for something like this, but it's

triggered by the participation of people, either sportsmen or non-sportsmen who care enough about this endeavor to go in and put in at least \$10 to get a certificate of participation in the nongame species fund. For every dollar raised, the general fund will contribute up to a matching dollar, as much as \$100,000 can go into this fund and start what is very necessary and that is the management of the nongame species. I think all of us should be very proud of this bill because it does move us into something that I think is very necessary.

The amendment that appears in your calendar is something that I hope doesn't scuttle the bill, but I think, it's needed because of the timeliness of it but also because of everything else that's happening this session, regarding the Fish and Game Department, and that is language that these rules can be put in by the director with the consent of the commission. I think that that is important, given the discussion that has taken place this session. I thank the Senate Finance for allowing my testimony and again, Senator Blaisdell, thank you for allowing me to do a Finance committee report. Maybe next time around I can do more of them as a member of your committee.

SENATOR CHANDLER: Senator Hounsell, would you tell me, because I'm a person who doesn't know anything about these things, what is a nongame species and what are they going to do with them?

SENATOR HOUNSELL: Well, nongame species are, for example, a chickadee. Any wildlife that is out there that there is not a season for the taking of. Any game out there that has really not been addressed by the fish and game department. They need to be managed because they are vital to all of the wildlife out there including some that are hunted. I don't know exactly how to answer your question except that way. There's a need to manage them, but there's a need not to hunt them, I guess is the best way to call a nongame species.

SENATOR CHANDLER: What are they going to do with the chickadees?

SENATOR HOUNSELL: I don't know.

SENATOR CHANDLER: We're going to have \$100,000 for chickadees?

SENATOR HOUNSELL: Hopefully not.

SENATOR STEPHEN: Senator Hounsell, in looking at this bill and knowing that you have the mourning dove in your committee, could you let me know if nongame refers to the mourning dove?

SENATOR HOUNSELL: Not right now it doesn't.

SENATOR STEPHEN: Do you think it will?

SENATOR HOUNSELL: If the mourning dove is taken off the list. The management of it would probably be developed into it somehow, I would imagine. But, right now it's a game species, so it wouldn't. Unless one of those bills pass. Right now the mourning dove is a game species.

SENATOR STEPHEN: Not allowed to be hunted?

SENATOR HOUNSELL: But, it could be hunted, it is a game species.

SENATOR STEPHEN: But, it isn't allowed in New Hampshire to be hunted presently, am I correct?

SENATOR HOUNSELL: My understanding is that it is a game bill that there has been no season set for and the purpose of the introduction of the bill that you sponsored and I co-sponsored is to take that ability of the director to set a season for mourning doves. So, my answer is, mourning doves, currently, are a game species.

SENATOR STEPHEN: It could be a nongame?

SENATOR HOUNSELL: If one of these pass.

SENATOR JOHNSON: I rise in favor of the bill, HB 1080 that is before us now. I think this is a bill that's long overdue. It will provide money outside of the so-called game species and including fish. It will broaden the scope of the fish and game department. It will no longer be the private preserve of just hunters and fishermen. It will now have a charter to protect a broader public interest and I think it needs to be passed.

SENATOR HEATH: I rise in favor of the bill. We tried to do this with a voluntary contribution a number of years ago and it failed, due largely to the tax collector's objection to doing some extra figuring. But, while I favor it, I'd like to also make the statement that whether or not mourning doves are hunted in the State of New

Hampshire, Senator Stephen, they will be defined in dictionaries, in books and in literature and by the federal government as a game species. It has no bearing on the definition, they are game species and the fact is, many people in New Hampshire go to other states and hunt them, including one of our fish and game commissioners. But, anything that you do for nongame species helps game species. Anything you do for game species, helps nongame species. They live in the same environment, they interact and is all to the common good.

SENATOR WHITE: Senator Hounsell, I get concerned about fish and game monies and I'm just curious; is this coming from the general fund or from the fish and game fund.

SENATOR HOUNSELL: That is a good question and I'm glad you asked that Senator White. To answer first of all, it is coming from the general fund, the \$50,000. As you know, by law, money that is raised from the sale of hunting licenses can not be used on anything except game funds, game management. So, by law, we're prohibited from using those monies and I strongly endorse that. However, the sportsmen that were in attendance endorse this measure because they see a need to protect the game species by protecting the non-game species.

SENATOR WHITE: I'm still confused. Is the fiscal note then inaccurate?

SENATOR HOUNSELL: That fiscal note doesn't pertain, Senator White, because that was the note that was put in the original House bill. It was geared towards putting a dollar in from the general fund, based on how many licenses were sold, were given out to people who are over 65. It has nothing to do with what is before us.

SENATOR MCLANE: I'm strongly in favor of this bill. I think it has long been needed. It is said that New Hampshire is the only state in the union that concentrates just on the animals that they hunt and fish and not on the interdependence of all species. There are species in New Hampshire of birds and mammals and only 60 of them are considered game species. I do want to commend Senator Hounsell for having thought of the method of funding and also to thank Senator Heath, who, over the years, has carried the burden for this bill and searched in every way to find, either through stamps or checkoffs in some manner, to find funding for this bill. I just hope that this funding works.

SENATOR HOUNSELL: I would like to say that it is important that we do recognize the effort of Senator Heath over the past years on this. It's through watching some of the things that he tried to get through, and some of the things he did get through, that I think has lead to this idea and I can not claim authorship to the idea, the need. Perhaps I helped in some way with the idea being brought before us today, but I think, we have to think back on the fight in 1985, I think it was Senator Heath, when you did have that provision which gave voluntary contribution. I adopted it, I accepted that at that time, I thought it was a clever idea. It was a little disheartening to think that the tax collectors came in, of all people, to stop it and I think what we have now is something that everyone can live with. I certainly hope it makes it through, but I think everyone should know that Senator Heath, when he was a member of the House also worked for this type of thing and we should acknowledge that in the permanent record.

AMENDMENT TO HB 1080-FN-A

Amend RSA 212-B:4 as inserted by section 1 of the bill by replacing it with the following:

212-B:4 Adoption of Rules. The executive director, with the consent of the commission, may adopt rules under RSA 541-A regulating the taking, possession, and handling of nongame species. Such authority shall extend to rules for the enhancement, protection, and propagation of nongame species.

Amendment adopted. Ordered to Third Reading.

HB 1178, relative to counting absentee ballots before the polls close. Ought to Pass. Senator Pressly for the Committee.

SENATOR PRESSLY: This bill was actually debated and voted upon last session and they found out that there were some technical errors and the request today is to say the same thing only in words that are more clearly understood by the people that must manage it. The word "absentee" was left out and it now is put in. It was recommended by the Secretary of State's office to make it clearer to the towns. The vote was unanimous that we support this and there was no opposition.

Adopted. Ordered to Third Reading.

Recess

Out of Recess

Senator Bartlett in Chair.

HB 784, relative to disclosure of securities takeovers. Ought to Pass with Amendment. Senator Roberge for the Committee.

SENATOR ROBERGE: This bill changes the definition of target companies; the old definition was found to be unconstitutional. I could read you the difference in the change, if you care to. The other change that we made is where the references in the RSA's call for commissioner of insurance; where it applies, we changed the definition to Office of Security Regulation because we have a new regulator of securities.

AMENDMENT TO HB 784

Amend the bill by replacing section 2 with the following:

2 Disclosure of Security Takeovers; Definitions. RSA 421-A:2, I is repealed and reenacted to read as follows:

I. "Director" means the director of the office of securities regulation as defined in RSA 400-A:43.

3 Disclosure of Takeovers; Administration. Amend RSA 421-A:9, I to read as follows:

I. This chapter shall be administered by the [insurance commissioner] director and employees designated by him within the [department] office. The [insurance commissioner] director is hereby empowered to [promulgate, alter, amend or revoke rules and regulations] adopt rules, pursuant to RSA 541-A, necessary to carry out the purposes of this chapter.

4 Change from Commissioner to Director. Amend the following RSA sections and paragraphs by replacing "commissioner" with "director": RSA 421-A:3; 421-A:4, X; 421-A:5; 421-A:6; 421-A:8; 421-A:9, II; 421-A:11; 421-A:12, I and II; and 421-A:13, II.

5 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill, as amended, redefines the term "target company" for the purpose of disclosure of security takeovers to the director of the office of securities regulation.

This bill, as amended, transfers the authority to administer the security disclosure takeover laws from the insurance commissioner to the director of the office of securities regulation.

Amendment adopted. Ordered to Third Reading.

HB 795, relative to motor vehicle liability policies. Ought to Pass. Senator Roberge for the Committee.

SENATOR ROBERGE: This change came about out of a court case. It changes the term for insurance policies from "issued or delivered in New Hampshire" to "a motor vehicle registered or principally garaged in New Hampshire". The court case came out of a situation where Purolator had their trucks garaged in New Hampshire but they had an accident and because the insurance policy was issued and never delivered to New Hampshire, the case had to be adjudicated in the court and by the laws of the other state where the company was principally located. We felt that it wasn't quite fair, because we intend New Hampshire residents to be covered by New Hampshire insurance policies.

Adopted. Ordered to Third Reading.

HB 1192-FN, establishing a task force to study long term care insurance for the elderly. Ought to Pass. Senator Pressly for the Committee.

SENATOR PRESSLY: This bill establishes a task force to study and make recommendations relative to the kinds of long term care insurance which should be available to the elderly in this state. The committee felt that this was a timely task force, that it's clear that there are needs and we look forward to their recommendation. The recommendation from the subcommittee is ought to pass.

Adopted. Ordered to Third Reading.

HB 759-FN-A, relative to constructing facilities for the office of the Chief Medical Examiner and making an appropriation therefor. Inexpedient to Legislate. Senator Podles for the Committee.

SENATOR PODLES: HB 759-FN is no longer necessary since the attorney general entered in an agreement with the Concord Hospital and the medical examiner for facilities and a supplemental budget has been submitted for \$100,000. That includes personnel and other things. The committee recommends inexpedient to legislate.

Adopted.

HB 203-FN, relative to the premature shutdown and decommissioning costs of any nuclear electric facility in New Hampshire. Inexpedient to Legislate. Senator Dupont for the Committee.

SENATOR DUPONT: HB 203, as it's presently in front of you, deals with the premature shutdown and decommissioning cost of nuclear generation facilities, which I assume the sponsors of this bill particularly meant Seabrook. The problem with 203 and the problem with some other legislation that the legislature passed in previous years is not so much the intent of the legislators, but the continual degradation of the ability of the PUC to act on, really, information that is so technical in nature that it requires expertise beyond what most of our legislators possess in order to deal with.

The issue in front, really at first glance, even from a layman's point of view, is that this bill is totally unconstitutional. It allows for the total cost of a shutdown, aside from what monies go into the decommissioning fund, to be born by Public Service or a power company, whomever that may be, and I think there's only one reactor in the state so it probably would have to be Public Service, for that company to bear the total cost of a shutdown, even though the reason for that shutdown may be as a result of actions by the citizens of New Hampshire. In any other situation in the state, when the state goes in and does something that causes monetary loss to an individual taking of property, the state is required by law to compensate that individual. So, the issue of the constitutionality of this bill came in to play in our hearing. I would remind the Senate that utility planning is a science and is very technical in nature and that what we ought to be doing today is strengthening the PUC, not taking away from it further regulatory controls that it presently has. The existing law does have final approval of the PUC before any decommissioning plan is brought in. So, I would urge my colleagues to vote with the committee report of inexpedient to legislate. Let's keep the politics out of the PUC. Their job is difficult enough as it is and we don't need legislation like this that is unconstitutional and is making a decision about an act that the PUC may never have to make, without having the experience of having seen the PUC make a decision on decommissioning. So, I urge the Senate to support the committee.

Senator Preston moved to substitute Ought to Pass.

SENATOR PRESTON: I'm aware that this bill was coming up today and we agreed that it should be heard today instead of on Tuesday, as the committee had intended. I thank the majority leader and the chairman of the committee for having offered to put it over until Tuesday, but I don't see any particular need for that. When you don't have the votes; you don't have the votes. I feel a little bit like Don Quixote, tilting at windmills as they sang the "Impossible Dream,"

hoping once in a while that you'll vote right on some of these issues before you. The killer bees were at work early on this bill, you could hardly recognize it. It's hardly worth voting for, so we, on behalf of the consumer, the only ones that appeared against it in the House were the venerable majority leader and the killer bees, sitting upstairs. It passed the committee on an eight to nothing vote, went through on a voice vote in the House Chambers. It came into the Internal Affairs Committee, it got short shrift and here it is before us. Essentially, the bill maintains some consistency in our policy that it protects the state and its citizens and it says that when a plant shuts down prematurely, the decommissioning charge must cease. Simple enough. The accumulated decommissioning funds maybe used for decommissioning and any balance necessary is the responsibility of the owner or owners themselves. Now, that is only fair. There is no need for long debate, Senator, when you've got the votes, you've got the votes and I'm not crying. But, this bill now looks like Kool-aid that instead of being mixed three to one has been diluted eight to one. Hardly recognizable, severe wounds inflicted in the House and awaiting the mortal blow from the majority Republican members of the Senate. But, the only ones you're protecting, by killing the bill today on this floor, are the big utilities, not the consumer, your constituents. Enough said on the technicalities of the bill. I'm a gracious loser; you're making a mistake and I'll say it any time you do this to a bill.

Motion failed.

Question: Inexpedient to Legislate.

Adopted.

Senators Pressly and Nelson wished to be recorded as opposed.

HB 981-FN, relative to renting video cassettes to minors and requiring proof of age for admission of minors to movies. Interim Study Senator St. Jean for the Committee.

SENATOR ST. JEAN: We had a very long and well attended public hearing on this particular House bill, 981. Other than the sponsors and two members of the House, virtually all of those attending were opposed to the bill. Although we did have a police officer come up from Nashua who was in favor of the bill. He acknowledged that it did not cover much of what concerned him. Significantly, there were no parents appearing in support of this legislation, nor did I see any parents signatures upon the cards that they were, in fact, in favor of

this legislation. I think that the sponsors were well intentioned, but they submitted no studies establishing a connection between movies and danger to society. Moreover, it became clear during that hearing that the films about which they were most concerned were not effected by the bill. In fact, many of the "R" rated films were praised, even by its sponsors. Clearly, the bill didn't do what its sponsors wanted it to do. Nevertheless, I think that most of the committee members, if not all the committee members, were in sympathy with the bill's intent. Unfortunately, I think it was poorly drafted and it came at the tail end of a deadline and it got out of the House at that time.

The amendments that were offered didn't make much more sense. I think also that the bill's probably unconstitutional, although I'm not a lawyer, because what you're doing is you're taking the voluntary movie standards and applying them across the board and I don't think it was very consistent with the goals and objectives of its sponsors. The most important thing to do, there were no studies, although Representative Baldizar came in and said that she's got studies with the coalition between violent movies and actions, that people who view those movies, the material that she gave to me did not prove that case at all. That was established, and I think this is an important point, providing those studies, then I don't think we should be able to see any of those movies, whether it be on HBO, MTV, books or magazines. We also had some librarians come in to testify and they were opposed to this legislation. John Dumis from the Retail Grocers Association came in and what they are going to do on a voluntary basis, the eleven hundred grocers, is use the same ratings that the movie theaters do now, on a voluntary basis. I think what you'll see is the video retailers, the merchants, do the same thing in the upcoming weeks. For those reasons, I think that this bill should be sent to Interim Study.

SENATOR HOUNSELL: You just said something that was encouraging and it was sort of what I was hoping for, the minimum of what I was hoping for out of this effort, and I do commend the sponsors for this bill because I do think they recognize a real problem. But, what you said and if you could elaborate on it, is that the retail grocers have committed themselves to policing their own industry. Is it your sense that that will go beyond just those members of the retail association, grocers association, but actually to some of these establishments that are solely involved in video cassette rentals? And perhaps even the regular movie houses?

SENATOR ST. JEAN: I think perhaps what you're going to see Senator, is the video retailers, to a certain degree, are already doing that. As a matter of applying to become a card holder on various video places to take out movies, you have to sign up and be at least 18 years of age to do that, Senator. So, I think, as a way of increasing their business, you're going to see that done across the boards, not only members of the retail grocers association but video vendors around the state.

SENATOR HOUNSELL: Senator St. Jean, would you believe that I don't think that any movie that wasn't produced by Walt Disney should be watched by anyone?

SENATOR ST. JEAN: I would believe that, Senator, if you say so.

SENATOR WHITE: Do you think, Senator St. Jean, by putting this into interim study, you will have some sort of clout with the dispensers of some of these films?

SENATOR ST. JEAN: Exactly, Senator. I think that's the reason we're putting it into interim study. If they don't act in a way that we feel is appropriate, meaning that they move on a voluntary basis, I suspect you'll see legislation come back in the next session and I would support such legislation.

SENATOR WHITE: You did indicate that there haven't been any studies that are tying these violent crimes that we're seeing, this great increase in juvenile murders, tied to the videos?

SENATOR ST. JEAN: Representative Baldizar came in and said she'd be able to document that. I went through everything that she submitted, Senator, and there wasn't a scintilla of evidence to prove that.

SENATOR NELSON: Senator St. Jean, I was most curious when I heard you use the term librarians. But, I didn't hear all that you said about the librarians and I was interested from where they came and what exactly are the librarians doing about this situation?

SENATOR ST. JEAN: The librarian that spoke was from Plymouth State College and his concern was that the older movies in their video library are not rated and they may somehow be affected by the legislation as it was proposed and they wouldn't be able to show those films, Senator.

SENATOR PRESSLY: As a Senate sponsor of this bill, I thank the Senate for recognizing that we have a big problem out there. As you

know, children can be turned away from a local cinema because a film is not appropriate for their viewing, and can go across the street and rent or purchase the very same film. It's a pleasure to learn of the commitment of the committee and their effort that they anticipate undertaking and exploring the full ramifications of this problem and I look forward to hearing the results of this interim study and any proposals for solving the problem that the committee will put forth.

SENATOR PODLES: Senator St. Jean, would you believe that the librarian you're speaking of was from the American Library Association and that was out of State? It's on a national level.

SENATOR ST. JEAN: It was my understanding he was from Plymouth State College on sabbatical.

SENATOR PODLES: But he spoke for the national level.

Adopted.

HB 461, establishing a committee to study the potential deregulation and vertical dis-integration of the electric utility industry. Inexpedient to Legislate. Senator Dupont for the Committee.

SENATOR DUPONT: HB 461 originally started out, I'm told, as a bill to mandate the deregulation and dis-integration of the electric utility industry. For those unfamiliar with vertical integration, it basically means that you control the supply of a product from when it comes out of the ground to the time when it ultimately reaches the consumer. The committee found no basis for having another study committee on this issue and moved that we make it inexpedient to legislate.

Adopted.

HB 896, permitting a corporation to limit the liability of its directors in its articles of incorporation. Ought to Pass. Senator Roberge for the Committee.

Senator Roberge moved to recommit HB 896 to Committee.

Adopted.

HB 943-FN, establishing a temporary program allowing the court to grant drivers' licenses conditional upon the use of ignition interlock devices after certain DWI license revocations and authorizing the

house judiciary committee to continue its study of ignition interlock devices. Inexpedient to Legislate. Senator White for the Committee.

SENATOR WHITE: We felt that this was a very bad message to send out to both the public at large and those people that are second DWI offenders. When they have their first offense, they are given a notice that indicates that if they are picked up a second time they will lose their license for a certain number of months plus they will be put in jail. So, they are put on notice the first time that they have been picked up and judged guilty of a DWI. So, we feel that this is just the wrong message to be sending out. We are beginning to pick up more people for DWI, but fewer people are being killed and for that reason we figure that the longer they go with out their driver's licenses, they certainly won't have a third DWI.

Adopted.

HB 980-FN, relative to penalties for sewage treatment violations. Ought to Pass. Senator Preston for the Committee.

Senator Preston moved to lay HB 980-FN on the table.

Adopted.

ENROLLED BILL AMENDMENT

SB 245, limiting the horsepower of boat motors on Long Pond in the town of Northwood.

SENATOR CHANDLER: This amendment is necessary to renumber the RSA section inserted by this bill to avoid duplicating the numbering of the RSA section already inserted earlier this session by House Bill 741, which became chapter 21.

Amend the bill by replacing lines 1-3 on page 1 with the following:

1 New Section; Long Pond. Amend RSA 486 by inserting after section 33 the following new section:

486:34 Long Pond.

Adopted.

HOUSE MESSAGE

HOUSE REQUEST CONCURRENCE WITH AMENDMENT

SB 317-FN, relative to master plans and their housing sections.

Senator Dupont moved nonconcurrency and requested a committee of conference.

Adopted.

The President appointed Senators: Charbonneau, Heath and Pressly.

SB 302-FN, relative to fireworks.

Senator White moved nonconcurrency and requested a committee of conference.

Adopted.

The President appointed Senators: White, Disnard and Freese.

SB 259, relative to child custody.

Senator Podles moved to concur.

Adopted.

SB 343-FN, relative to liability for expenses of children under the supervision of the division for children and youth services.

Senator Bond moved to concur.

Adopted.

SB 299-FN, relative to deeds.

Senator Freese moved to concur.

Adopted.

SB 293-FN, relative to asbestos management.

Senator White moved to concur.

Adopted.

SB 288-FN, relative to placing articles on the official ballot and to declarations of candidacy in towns which have adopted the non-partisan ballot system.

Senator Dupont moved to concur.

Adopted.

SB 319, relative to the cancellation of insurance policies.

Senator Nelson moved to concur.

Adopted.

SB 255, relative to school district boundaries.

Senator Hounsell moved to concur.

Adopted.

COMMITTEE REPORTS

HB 917, making technical changes for the department of revenue administration. Ought to Pass with Amendment. Senator Roberge for the Committee.

SENATOR ROBERGE: This is a housekeeping bill, it makes no changes and I believe that we have an amendment to be offered.

AMENDMENT TO HB 917

Amend the title of the bill by replacing it with the following:

AN ACT

making technical changes for the department of revenue
administration and relative to the taxation of
transferable shares under the interest
and dividends tax.

Amend the bill by replacing section 7 with the following:

7 New Section; Transferable Shares. Amend RSA 77 by inserting after section 4-b the following new section:

77:4-c Sale or Exchange of Transferable Shares Not Taxable. No provision of RSA 77:4 or RSA 77:7 shall be construed to include within any class of property otherwise taxable as income, any amount received from the sale, exchange or transfer of either a share of corporate stock or any other transferable share under this chapter, whether by way of liquidation, redemption or otherwise, and irrespective of the identity of the parties to the sale, exchange or transfer.

8 Effective Date.

I. Sections 1-6 of this act shall take effect 60 days after its passage.

II. Section 7 of this act shall apply to returns and taxes due on account of taxable periods ending after December 31, 1988.

AMENDED ANALYSIS

As amended, this bill:

(1) Removes the specific number of revenue administration field team audit leaders in group L.

(2) Inserts revenue administration multistate auditors in group K.

(3) Provides that each revenue administration division director shall be bonded as deemed sufficient by the board of approval under RSA 93-B, rather than in an amount determined sufficient by the commissioner of revenue administration.

(4) Changes the date on which the commissioner of revenue administration must file his report of all the taxable property in the state and its assessed value from January 15 to April 1.

(5) Adds an additional exception to paying a penalty for under payment of estimated taxes in cases where it is the first tax period for which a taxpayer is required to file a tax return.

As amended, the bill also excludes from taxation under RSA 77, any amount received from the sale, exchange or transfer of either a share of corporate stock or any other transferable share under RSA 77, whether by way of liquidation, redemption or otherwise, and irrespective of the identity of the parties to the sale, exchange or transfer.

Amendment adopted.

Senator Dupont offered a floor amendment.

SENATOR DUPONT: You have before you an amendment which merely changes an effective date on one section of the bill.

Floor Amendment to HB 917

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administration and relative to the taxation of
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Floor amendment adopted. Ordered to Third Reading.

RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Tuesday, April 5, 1988 at 1:00 p.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 831-FN-A, relative to a one-time reimbursement for oil spill damage and making an appropriation therefor and relative to the administration of the oil pollution control fund.

HB 1089-FN, relative to clarifying and changing the penalties under certain forestry laws and relative to deceptive forestry business practices.

HB 749, permitting persons qualified to hunt from motor vehicles to hunt from OHRV's and ATV's.

HB 883-FN, relative to resident and non resident wholesale marine species licenses.

HB 467-FN, establishing a committee to study the allocation of funds and costs in the Tilton and Northfield union school district.

HB 762-FN-A, making supplemental appropriations to the Fish & Game department.

HB 843-FN-A, appropriating funds for the Northeast Rural Water Association for equipment, technical assistance and training to rural water systems.

HB 893-FN-A, making a supplemental appropriation to the Fish & Game department.

HB 1072-FN-A, appropriating funds to the department of environmental services for a water supply study.

HB 1107-FN-A, establishing a committee to study legislative employees' and constitutional officers' retirement benefits and making an appropriation therefor.

HB 1080-FN-A, relative to nongame species and making a continuing appropriation therefor.

HB 1178, relative to counting absentee ballots before the polls close.

HB 784, relative to disclosure of securities takeovers.

HB 795, relative to motor vehicle liability policies.

HB 1192-FN, establishing a task force to study long term care insurance for the elderly.

HB 917, making technical changes for the department of revenue administration and relative to the taxation of transferable shares under the interest and dividends tax.

Senator Dupont moved that the Senate adjourn.
Adopted.

Adjournment.

Tuesday, April 5, 1988

The Senate met at 1:00 p.m.
A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, we thank you for the beauties of this world - with its Spring Awakenings! May we too - awaken ourselves - with new outlooks and renewed outreach - as we handle our work in the waning days of our Legislative duties. Bless us Lord.

Amen

Senator White led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

HOUSE MESSAGE

HOUSE REQUEST CONCURRENCE WITH AMENDMENT

SB 261, relative to setting seasons and bag limits on small game birds and animals.

Senator Hounsell moved nonconcurrence and requested a committee of conference.

Adopted.

The President appointed Senators: Hounsell, McLane and St. Jean.

SB 349-FN-A, to provide 2 additional field staff and additional equipment to the division of air resources for statewide air quality monitoring and making an appropriation therefor.

Senator Blaisdell moved nonconcurrence and requested a committee of conference.

Adopted.

The President appointed Senators: Blaisdell, Dupont and Torr.

SB 310-FN-A, relative to the purchase and distribution of breathalyzer machines and making an appropriation therefor.

Senator Blaisdell moved nonconcurrency and requested a committee of conference.

Adopted.

The President appointed Senators: Blaisdell, Dupont and Johnson

SB 283, relative to protective services for adults.

Senator Krasker moved to concur.

Adopted.

SB 342, amending the certificate of need law.

Senator Krasker moved to concur.

Adopted.

COMMITTEE REPORTS

HB 625-FN, relative to fees for boats and boat registration, and making certain appropriations. Ought to Pass with Amendment. Senator Preston for the Committee.

SENATOR PRESTON: This bill pertains to boat fees, and the use of the collected funds going to the general fund. It allows and directs that the safe boating publication be issued to all applicants for licenses. It appropriates money for six patrol officers and it makes an additional appropriation to carry out the enforcement of the boating regulations.

AMENDMENT TO HB 625-FN

Amend the bill by replacing section 7 with the following:

7 Appropriations; Department of Safety. In addition to all other sums appropriated to the department of safety, division of safety services, PAU 02, 15, 03, 01:

I. The sum of \$15,500 is hereby appropriated for the fiscal year ending June 30, 1988, for expenses incurred in issuing the safe boating publication to every person registering a boat for use on public waters of the state.

II. The sum of \$4,090 is hereby appropriated for the fiscal year ending June 30, 1988, and the sum of \$107,336 for the fiscal year ending June 30, 1989, for 6 permanent full-time classified marine patrol officers, labor grade 15.

III. The governor is authorized to draw his warrant for said sums in paragraphs I and II out of any money in the treasury not otherwise appropriated.

Amend the bill by deleting section 8 and renumbering section 9-12 to read as 8, 9, 10, and 11 respectively.

Amend the bill by replacing section 11 with the following:

11 Effective Date.

I. Section 7 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect January 1, 1989.

AMENDED ANALYSIS

As amended:

This bill changes the references to a boat permit fee under RSA 72-A to a boat fee.

The bill provides that when the boat fee is collected by the division of motor vehicles, the division shall each month send all such fees to the state treasurer, to be deposited in the general fund.

The bill encourages the use of funds collected from boat registration fees to administer and enforce existing boating laws.

The bill provides for the issuance of a safe boating publication to every person registering a boat for use on the states' public waters.

The bill makes appropriations to the division of safety services for the following purposes:

(1) \$15,500 to issue the safe boating publication.

(2) \$111,426 for 6 marine patrol officers.

Amendment adopted. Ordered to Third Reading.

HB 1062-FN, extending the reporting date for the advisory committee on state economic development and local population growth. Ought to Pass with Amendment. Senator Preston for the Committee.

SENATOR PRESTON: HB 1062 merely extends the reporting date of the advisory committee on the state economic development and local population growth from December 31st of '87, which is past, to December 31st of 1988; a one year extension. The further amend-

ment, an additional member is added to the advisory committee, a representative of the New Hampshire Housing Authority.

AMENDMENT TO HB 1062

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the advisory committee on state economic development and local population growth.

Amend the bill by replacing section 2 with the following:

2 New Paragraph; Committee Membership. Amend 1987, 52:2 by inserting after paragraph XIII the following new paragraph:

XIV. One member appointed by the New Hampshire housing finance authority.

3 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill extends the reporting deadline for the advisory committee on state economic development and local population growth from December 31, 1987 to December 31, 1988.

This bill, as amended, also increases the membership of the advisory committee to include a member appointed by the New Hampshire housing finance authority.

Amendment adopted. Ordered to Third Reading.

HB 820, relative to the hunter education program and bow and arrow licenses. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: The amendment that we put in is consistent with what we have done earlier and that is with the consent of the commission that they themselves establish the rule. We did feel that it was consistent with what we have done previously in sessions. This bill is at the request of the Fish and Game Department.

AMENDMENT TO HB 820

Amend RSA 214:23-b as inserted by section 2 of the bill by replacing it with the following:

214:23-b Program. The executive director, with the consent of the commission, is authorized to establish a program for training persons in the safe handling of firearms and for this purpose may coop-

erate with any public or private association or organization having as one of its objectives the promotion of safety in firearms handling. The executive director, with the consent of the commission, shall [prescribe] adopt rules under RSA 541-A prescribing the type of instruction, qualifications of the instructors, and time and place of examination, the successful completion of which shall qualify a person for said certificate of [competency] completion.

Amend RSA 214:23-d as inserted by section 3 of the bill by replacing it with the following:

3 Duplicate Certificates. Amend RSA 214:23-d to read as follows:

214:23-d Duplicate Certificate of [Competency] Completion. The executive director, with the consent of the commission, is authorized to charge a fee for the issuance of a duplicate certificate of [competency] completion. The amount of said fee shall be determined by the executive director, with the consent of the commission, and the fee shall be credited to the fish and game fund. To receive a duplicate certificate of [competency] completion, the applicant shall complete an affidavit setting forth the circumstances surrounding its loss or destruction.

Amend RSA 208:5, III as inserted by section 4 of the bill by replacing it with the following:

III. The licensee shall be entitled to hunt deer during the special archery season established by the executive director, with the consent of the commission, pursuant to RSA 208:2 throughout the state and in Bear Brook Refuge.

AMENDED ANALYSIS

This bill, as amended, changes the term "certificate of competency" to "certificate of completion" in the subdivision relative to the hunter education program. The hunter safety training program is changed to the hunter education program.

This bill, as amended, amends the law relative to the licensing of bow and arrow hunters.

The bill requires the consent of the fish and game commission on certain actions of the executive director.

Amendment adopted. Ordered to Third Reading.

HB 818, relative to the taking of trout. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: This bill will enable the department to be able to establish laws and rules for taking of brown trout, between four hours after sunset and one hour before sunrise. I guess they needed this bill to be able to do that. The amendment, again, puts in the words, "with the consent of the commissioner".

AMENDMENT TO HB 818

Amend RSA 211:2-a, II as inserted by section 1 of the bill by replacing it with the following:

II. Notwithstanding the provisions of paragraph I, the executive director, with the consent of the commission, may adopt rules under RSA 541-A designating certain streams, or the parts thereof, where brown trout may be taken between 2 hours after sunset to one hour before sunrise.

AMENDED ANALYSIS

This bill, as amended, removes the provision requiring consent of the commission and removes the word "only" relative to the taking of brown trout.

The amended bill requires the consent of the commission to certain rulemaking of the executive director.

Amendment adopted. Ordered to Third Reading.

HB 965-FN, establishing a study committee to examine the issue of parenting skills training. Inexpedient to Legislate. Senator Johnson for the Committee.

SENATOR JOHNSON: HB 965, testimony at the hearing really supported a need for parenting skills training. However, there clearly is not any need to establish a study committee to do this. The need has already been established and the Division of Children, Youth and Elderly Affairs did not participate in this hearing, they did not testify on it. So, it was the belief and the feeling of the committee that the Division of Children, Youth and Elderly Affairs should get on with it, because they know what the issue is, rather than studying it.

Adopted.

HB 873, changing the title of "safety inspectors" to "highway enforcement officers" in the department of safety and providing for independent inspectors for carnival and amusement rides. Ought to Pass with Amendment. Senator Freese for the Committee.

Senator Freese moved to recommit HB 873.

Adopted.

HB 852-FN, relative to New Hampshire hospital personnel. Ought to Pass with Amendment. Senator Freese for the Committee.

SENATOR FREESE: This amendment, on page eleven of the calendar today, is a cost effective measure. This is for the New Hampshire hospital to join forces at the new New Hampshire state hospital for at least a period of five years. People at medical school are paid for on the job training and we will upgrade the medical care at the State Hospital. That, with federal backing, will crowd bids for medical malpractice insurance. They found that this would be very, very costly; a million dollars per coverage is not very effective. Because the State has put a cap on of \$250,000 for each incident, also some immunity (tape inaudible). There was no opposition to this amendment.

The original bill before you expands the process for which the employee may be terminated. This deals with management level and personnel, psychiatrist, physicians, dentists and so forth, in our move to join the Dartmouth Medical School with this joint venture. It also requires the highest quality of psychiatrist services to the State citizens who reside at the New Hampshire hospital. If there is an overlap, it will give the director the flexibility that's really needed. The committee recommends ought to pass with amendment.

AMENDMENT TO HB 852-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to New Hampshire hospital personnel and relative to claims arising from the clinical operation and administration of New Hampshire hospital.

Amend the bill by replacing section 3 with the following:

3 New Section; Claims Arising from the Operation and Administration of the New Hampshire Hospital. Amend RSA 541-B by inserting after section 20 the following new section:

541-B:21 Claims Arising from the Clinical Operation and Administration of the New Hampshire Hospital.

I. Without otherwise limiting or defining the sovereign immunity of the state and its agencies, this chapter shall apply to all claims against any entity, or any employee, trustee, or director of such entity when acting in the scope of his elected or appointed capacity, providing clinical services in accordance with any contract entered into by the division of mental health and developmental services for the clinical operation and administration of the New Hampshire hospital pursuant to RSA 135-C:3 and RSA 135-C:4.

II. The limitations on awards provided in RSA 541-B:14 shall not be increased by the proceeds from any insurance policy procured by an entity, or any employee of such entity, included under RSA 541-B:21, I.

III. This section shall apply only to claims arising out of incidents occurring on or after July 1, 1988 and prior to July 1, 1994.

4 New Section; Claims Arising from the Operation and Administration of the New Hampshire Hospital. Amend RSA 99-D by inserting after section 7 the following new section:

99-D:8 Claims Arising from the Clinical Operation and Administration of the New Hampshire Hospital.

I. Without otherwise limiting or defining the sovereign immunity of the state and its agencies, this chapter shall apply to all claims against any entity, or any employee, trustee, or director of such entity when acting in the scope of his elected or appointed capacity and not in a wanton or reckless manner, arising out of clinical services provided in accordance with any contract entered into by the division of mental health and developmental services for the clinical operation and administration of the New Hampshire hospital pursuant to RSA 135-C:3 and RSA 135-C:4.

II. This section shall apply only to claims or civil actions arising out of incidents occurring on or after July 1, 1988, and prior to July 1, 1994.

5 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill expands the concept of good cause for termination of employees by the director of the division of mental health and developmental services. Under this bill, the expanded definition only applies to the following New Hampshire hospital personnel: the assistant superintendent for professional services, the assistant superintendent of New Hampshire hospital, unit directors, senior physician, psychiatrist, and dentist.

The bill, as amended, makes certain claims arising during the clinical operation and administration of New Hampshire hospital claims against the state.

Amendment adopted. Ordered to Third Reading.

HB 833, relative to the defense and indemnification of housing finance board officials and employees. Ought to Pass with Amendment. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: The original bill is a cost cutting bill. The housing authority is the creation of the legislature. They used to be able to obtain insurance for \$3,000 for three years. The last bid put out was \$112,000 for one year. They'd like to come under the umbrella provided by the self insuring state. If you read the bill you will see that we already do it for other state agencies and with this cost savings, we should be able to do it for the housing and finance authority.

The amendment merely changes it from the housing finance board to the housing finance authority. The director requested this change and she felt this was a proper name for the group.

AMENDMENT TO HB 833

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the defense and indemnification of housing
finance authority officials and employees.

Amend RSA 99-D:2 as inserted by section 1 of the bill by replacing it with the following:

99-D:2 Defense and Indemnification. If any claim is made or any civil action is commenced against a present or former officer, trustee, official or employee of the state or any agency thereof, including members of the New Hampshire national guard and any justice of the district, municipal, probate, superior or supreme court, or the clerks thereof, or any harbor master appointed by the New Hampshire port authority, or officials and employees of the New Hampshire housing finance authority, seeking equitable relief or claiming damages for the negligent or wrongful acts and the officer, trustee, official, or employee requests the state to provide represen-

tation for him, and the attorney general, or, in the case of a claim or civil action commenced against the attorney general, the governor and council, determines that the acts complained of were committed by the officer, trustee, official, or employee while acting within the scope of official duty for the state and that such acts were not wanton or reckless, the attorney general shall represent and defend such person with respect to such claim or throughout such action, or shall retain outside counsel to represent or defend such person, and the state shall defray all costs of such representation or defense, to be paid from funds not otherwise appropriated. In such case the state shall also protect, indemnify, and hold harmless such person from any costs, damages, awards, judgments or settlements arising from the claim or suit. The attorney general or governor and council shall not be required to consider the request of such person that representation be provided for him unless within 7 days of the time such person is served with any summons, complaint, process, notice, demand, or pleading he shall deliver the original or a copy thereof to the attorney general or, in the case of an action against the attorney general, to the governor and council. As a condition to the continued representation by the attorney general and to the obligation of the state to indemnify and hold harmless, such officer, trustee, official, or employee shall cooperate with the attorney general in the defense of such claim or civil action. No property either real or personal of the state of New Hampshire shall be subject to attachment or execution to secure payment of or to satisfy any obligations of the state created under this chapter. Upon the entry of final judgment in any action brought under this chapter, the governor shall draw his warrant for said payment out of any money in the treasury not otherwise appropriated, and said sums are hereby appropriated. The attorney general shall have the authority to settle any claim brought under this chapter by compromise and the amount of any such settlement shall be paid as if the amount were awarded as a judgment under this chapter. Indemnification by the state under this section shall be for the actual amount of costs, damages, awards, judgments, or settlements personally incurred by any such officer, trustee, official, or employee, and the state shall not pay any amounts for which payment is the obligation of any insurance carrier or company under a policy or policies of insurance or of any other third party under a similar obligation.

AMENDED ANALYSIS

This bill, as amended, provides that the state shall defend and in-

demnify housing finance authority officials and employees in civil claims brought against them for acts committed within the scope of their duties for the state.

Amendment adopted. Ordered to Third Reading.

HB 900, extending the reporting dates for the study committee to examine the cooperative extension service and the fire law study committee. Ought to Pass with Amendment. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: HB 900 extends the reporting date for the study committee to examine the cooperative extension service and the fire law study committee. The amendment merely adds another group already in existence to extend their filing date, namely that of the environmental risk assurance study commission.

AMENDMENT TO HB 900

Amend the title of the bill by replacing it with the following:

AN ACT

extending the reporting dates for the cooperative extension service and fire law study committees and extending the report date and appropriation of the environmental risk insurance fund study commission.

Amend the bill by replacing all after section 2 with the following:

3 Report Date Extension; Environmental Risk Insurance Fund Study Commission. Amend 1987, 360:4 to read as follows:

360:4 Report Date. The commission shall file its report, along with any recommended legislation, with the senate president and speaker of the house no later than [April 15] November 1, 1988.

4 Appropriation; Extension. Amend 1987, 360:5 to read as follows:

360:5 Appropriation. In addition to any other sums appropriated to the department of insurance, there is hereby appropriated the sum of \$40,000 for the [fiscal year] biennium ending June 30, 1989, to the department of insurance for the use of the commission in collection and processing data, engaging such consultants as the commission deems necessary, and preparation of its report and recommendations. Any part of such sum which has not been expended by [April 15] November 1, 1988, shall lapse to the general

fund. In addition to such appropriation the department of insurance may accept any gifts, grants, and contributions donated to the commission, and shall provide that any such donation be available for the use of the commission. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

5 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill, as amended, extends the reporting date of the committee studying the cooperative extension service from September 15, 1987, to September 15, 1988, extends the reporting date of the committee reviewing existing fire laws from December 1, 1987, to December 1, 1988, and extends the reporting date of the environmental risk insurance fund study commission from April 15, 1988, to November 1, 1988. The appropriation for the environmental risk insurance fund study commission shall be for the 1989 biennium and shall not lapse until November 1, 1988.

Amendment adopted. Ordered to Third Reading.

HB 1048-FN, relative to health care benefits for retired employees of political subdivisions. Ought to Pass. Senator Bond for the Committee.

SENATOR BOND: This bill requires every political subdivision of the State, that provides its active employees any group health insurance or group health care plan to permit its employees, upon retirement, to continue to participate in the same health care plan as its active employees, at the expense of the individual, not at the expense of the political subdivision.

Adopted. Ordered to Third Reading.

Recess.

Out of Recess.

Senator Dupont in Chair.

HB 990-FN-A, relative to planning and design of a new facility for the Concord district court and making an appropriation therefor. Ought to Pass with Amendment. Senator Bartlett for the Committee.

SENATOR BARTLETT: HB 990-FN-A is a bill that called for \$200,000 to plan a new court facility in the city of Concord. I think there is no question the city of Concord's facility is inadequate and

Internal Affairs spent a considerable amount of time trying to find out how to accommodate the court system in the city of Concord. As you will hear, as the next couple of weeks go along, there are more requests for money than there is money, and that's not unusual in this body. So, if you'll refer to page 15 of your calendar, you will find that the court system has a fund that exceeds a million three. We have made an amendment to that to allow it to apply some of that money to study the Concord court system. We've also suggested in the report that the study be confined to State land, being our conservative nature and the State owns a considerable amount of land in Concord. There are two locations which appear to be acceptable to most everyone in the city and that any time that we've talked about taking land, there has been tremendous hue and cry that we are taking money off the tax roll or we're displacing people. The State owns land on Clinton Street, they own land on Hazen Drive and we assume that the committee will be reviewing both of those parcels for the possible location of the court. The court, in its wisdom, has expressed the desire, and in agreement with Department of Legislative Services, that really court buildings should be under plant and property management. The Supreme Court asked that we reserve the right for them to control all space for facilities and equipment in the Supreme Court building. We don't wish to intrude on the Supreme Court, in any manner, and that we went along with. You will note that the last paragraph says, that the division of plant and property management will also maintain all other State court buildings and facilities and grounds without any restrictions. This is a raising of funds; I assume this will be sent to Senate Finance under Rule 24.

AMENDMENT TO HB 990-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

relative to maintenance of court facilities and relative
to funding for the planning and design of
new district court facilities.

Amend the bill by replacing all after section 1 with the following:

2 Escrow Account for Court Facility Improvements. Amend RSA 490:26-c, I and II to read as follows:

I. Three dollars from each entry fee collected in the municipal, district, superior and probate courts shall be deposited in escrow for court facility improvements. Moneys in the escrow account shall be

used for improvements of and for planning and design of additional court facilities, whether accredited or unaccredited, as approved by the New Hampshire court accreditation commission.

II. The supreme court shall establish procedures for deposits to and expenditures from the escrow account for court facility improvements and planning and design of additional court facilities. Expenditures of such moneys shall be approved by the court accreditation commission.

3 Funding for Planning and Design of New Concord District Court Facility. Notwithstanding the provisions of RSA 490:26-c requiring the approval of the New Hampshire court accreditation commission, the supreme court shall use funds from the escrow account for court facility improvements to plan and design a new facility for the Concord district court. Such facility shall be located on land currently owned by the state.

4 Department of Administrative Services to Maintain Court Facilities. Beginning on July 1, 1989, the division of plant and property management, department of administrative services, shall be responsible for the maintenance of all state owned court buildings, facilities, and grounds.

5 Reference Change; Buildings and Facilities. Amend RSA 490:26 to read as follows:

490:26 [Building] Buildings and Facilities. The supreme court shall control all space, facilities, and equipment in the supreme court building. The division of [purchase and property] plant and property management shall maintain the supreme court building and grounds in suitable repair and condition for use by the supreme court and the law library. The division of plant and property management shall also maintain all other state owned court buildings, facilities, and grounds.

6 Effective Date.

I. Sections 4 and 5 of this act shall take effect July 1, 1989.

II. The remainder of this act shall take effect July 1, 1988.

AMENDED ANALYSIS

This bill, as amended, allows funds in the escrow account for court facility improvements to be used for the planning and design of new district court facilities. The supreme court shall draw on such sum for the planning and design of a new Concord district court facility, provided that such facility is to be located on state-owned land.

This bill, as amended, provides that the division of plant and property management, department of administrative services, shall be responsible for maintenance of all state-owned court facilities beginning on July 1, 1989.

Amendment adopted. Referred to Finance (Rule #24)

Recess.

Out of Recess.

Senator Bartlett in Chair:

HB 1186, relative to the establishment of inclusionary zoning and linkage and accessory dwelling unit standards and development restrictions. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: HB 1186, as amended by the Senate, has two provisions. One deals with inclusionary zoning, which is a practice of providing incentives in a local zoning ordinance to make it financially advantageous for a developer to construct low and moderate income housing.

The second provision of it deals with accessory dwelling units, which allows the construction, if a community desires, of mother-in-law apartments, small apartment units in single family zoning. It is a bill that mandates nothing, it strictly allows communities, if they so desire, to have these two provisions in their zoning ordinances.

AMENDMENT TO HB 1186

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the establishment of inclusionary zoning
and accessory dwelling unit standards
and development restrictions.

Amend the bill by replacing sections 1 and 2 with the following:

1 Additional Innovative Land Use Controls. Amend RSA 674:21, I to read as follows:

I. Innovative land use controls may include, but are not limited to:

(a) Timing incentives;

(b) Phased development;

- (c) Intensity and use incentive;
- (d) Transfer of development rights;
- (e) Planned unit development;
- (f) Cluster development;
- (g) Impact zoning;
- (h) Performance standards;
- (i) Flexible and discretionary zoning; [and]
- (j) Environmental characteristics zoning[.];
- (k) Inclusionary zoning; and
- (l) Accessory dwelling unit standards.

2 New Paragraph; Inclusionary Zoning and Accessory Dwelling Units Defined. Amend RSA 674:21 by inserting after paragraph III the following new paragraph:

IV. As used in this section:

(a) "Inclusionary zoning" means land use control regulations which provide a voluntary incentive or benefit to a property owner in order to induce the property owner to produce housing units which are affordable to persons or families of low and moderate income. Inclusionary zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined application process.

(b) "Accessory dwelling unit" means a second dwelling unit, attached or detached, which is permitted by a land use control regulation to be located on the same lot, plat, site, or other division of land as the permitted principal dwelling unit.

AMENDED ANALYSIS

This bill, as amended, adds inclusionary zoning and accessory dwelling unit standards to what may be included in innovative land use controls.

The bill permits any open space designation or other development restriction which is part of a cluster development, planned unit development or other proposal approved under innovative land use controls, or which is lawfully imposed by a local land use board as a condition of subdivision, site plan, variance or other type of approval, and which has been filed in the records of the local land use board in accordance with its established procedure, to create a conservation restriction as defined in RSA 477:45, I.

Amendment adopted. Ordered to Third Reading.

HB 1150-FN, permitting the attorney general to hire part-time attorneys general. Ought to Pass with Amendment. Senator St. Jean for the Committee.

SENATOR ST. JEAN: HB 1150-FN allows the attorney general flexibility in hiring three part-time assistant attorneys general while decreasing his full time staff by one. This was an agreed to bill by the attorney general's office and the Internal Affairs Committee.

AMENDMENT TO HB 1150-FN

Amend RSA 7:16-a, II as inserted by section 1 of the bill by replacing it with the following:

II. The attorney general may designate one full-time unclassified assistant attorney general position as temporary, part-time positions, provided such a full-time position is vacant at the time of such designation. For the duration of the designation of such position the attorney general, with the approval of the governor and council, may hire attorneys as part-time assistant attorneys general, provided that the per diem compensation of such employees shall not exceed the maximum equivalent per diem compensation of an assistant attorney general pursuant to RSA 94:1-a. The attorney general may employ no more than 3 part-time assistant attorneys general up to the limit of funds available for the full-time position designated by the attorney general for part-time employment. A part-time assistant attorney general shall be governed by the same terms and conditions of employment as a full-time assistant attorney general, including the prohibition of the private practice of law under RSA 7:6-d, except that a part-time assistant attorney general shall serve at the pleasure of the attorney general.

AMENDED ANALYSIS

This bill, as amended, allows the attorney general to hire up to 3 part-time assistant attorneys general instead of a full-time assistant attorney general.

This bill was requested by the department of justice.

Amendment adopted. Ordered to Third Reading.

HB 834, relative to prima facie evidence. Inexpedient to Legislate. Senator Nelson for the Committee.

SENATOR NELSON: This bill as amended, defines prima facie evidence. The House vote was very close. According to the minutes and the testimony it was decided that this bill was not needed. It came out five to nothing out of the Judiciary Committee.

Adopted.

HB 1001-FN, relative to civil suits against municipal officials. Inexpedient to Legislate. Senator Podles for the Committee.

SENATOR PODLES: HB 1001 requires a preliminary hearing if a municipal official is being sued in Superior Court over something he did in his official capacity. If the plaintiff fails to show substantial evidence to support his claim, he will have to pay the defendants court and attorney fees. There are already adequate statutes, court procedures and court rules addressing all aspects of this bill. The Committee recommends inexpedient to legislate.

Adopted.

HB 1067-FN, relative to the penalty for an aggravated DWI offense. Ought to Pass with Amendment. Senator Podles for the Committee.

SENATOR PODLES: HB 1067-FN, as amended by the House, provides for a community service project, sentenced at the discretion of the judge, in certain aggravated DWI cases. However, this discretion is already in the law, so the Senate amendment restores the bill to its original form providing for a mandatory sentence including either 48 hours incarceration or 48 hours of community service. It was felt that a strong message needs to be sent to the public about aggravated DWI and so mandatory sentence provisions were preferred to discretionary ones.

AMENDMENT TO HB 1067-FN

Amend RSA 265:82-b, II as inserted by section 1 of the bill by replacing it with the following:

II. Any person who is convicted of a violation of RSA 265:82-a shall be guilty of a misdemeanor and fined not less than \$350 and not more than \$1,000; and, if a resident of this state, his driver's license or driving privilege or, if he is a nonresident, his privilege as an out-of-state driver to drive on any ways of this state shall be revoked for a period of not less than one year or more than 2 years. In addition, any person who is convicted under RSA 265:82-a shall be sentenced either to imprisonment for 2 consecutive 24-hour periods or to 48 hours of work on a community service project. Community service projects shall have been approved by the department of justice. The attorney general shall establish guidelines for the approval of community service projects in rules adopted under RSA 541-A.

AMENDED ANALYSIS

This bill provides that anyone convicted of an aggravated driving

while intoxicated offense shall be sentenced either to imprisonment for 48 hours or to 48 hours of work on a community service project. These community service projects must meet the approval of the department of justice. This mandatory penalty shall be in addition to penalties for aggravated driving while intoxicated under current law.

Amendment adopted. Ordered to Third Reading.

HB 594-FN, relative to county victim assistance programs and making an appropriation therefor. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: You will find the amendment on page 5 of today's calendar. Basically what that does is it reverses it back to the original bill. In the bill, what it does is it puts a penalty assessment on violations and that's what will fund the program so that we won't have the \$239,000 coming out of the general fund. It will go attributable to the violators. I had a concern over part of that, in that if someone was picked up for an unregistered car, they would have to pay a penalty, but actually, the penalty only amounts to ninety cents. So, I felt that was well worth it to have a penalty on all offenders, so we urge ought to pass as amended.

AMENDMENT TO HB 594-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to victims' assistance and establishing
a victims' assistance fund.

Amend the bill by replacing all after the enacting clause with the following:

1 New Subparagraph: Victims' Assistance Fund Established. Amend RSA 6:12, I by inserting after subparagraph (w) the following new subparagraph:

(x) The assessments collected under RSA 651:2, II-f, which shall be credited to the victims' assistance fund until that fund exceeds \$2,000,000, at which time moneys in excess of \$2,000,000 shall revert to the general fund.

2 New Sections; Victims' Assistance Program; Authorization, Administration and Functions. Amend RSA 21-M by inserting after section 8-b the following new sections:

21-M:8-c DWI and Crime Victims' Assistance Program; Administration. There is established a victims' assistance program to be administered by the department of justice.

21-M:8-d Victims' Assistance Commission.

I. A victims' assistance commission is hereby established to review and award victims' claims for compensation. The attorney general shall nominate not fewer than 3 nor more than 5 persons to serve as members of this commission. Appointments shall be effective when the nominations are approved by the governor and council.

II. The commission shall review claims from victims for compensation and make compensation awards from the victims' assistance fund.

21-M:8-e Claimant Eligibility; Compensation.

I. Victims of (a) a felony resulting in personal injury; or (b) injuries caused by persons driving under the influence of alcohol or controlled substances; are eligible for compensation. In case of the victim's death as a direct result of the crime, the victim's spouse, the parents of a victim who was a dependent child, or the victim's dependent children are eligible to claim compensation.

II. The claimant shall file a claim for compensation within 60 days of the crime, unless good cause is shown.

III. A claimant may not be deemed ineligible for compensation based solely upon failure to apprehend the offender, or based solely upon failure of the state to obtain a conviction against the offender, providing there is reasonable evidence to sustain the claim that a crime had been committed which resulted in injury to the victim.

IV. The commission may consider the finding of innocence or guilt of the alleged offender in arriving at their determination of eligibility of the claimant. In determining eligibility and the amount of compensation to be awarded, the commission shall consider the contributory fault of the victim in causing his injury. Compensation shall not be paid to the accused, members of the accused's immediate family, or persons who reside with or who have maintained a continuous relationship with the accused, except under exceptional circumstances "in the interest of justice"; or except where the victim is under the age of 17 years at the time of the offense and the crime committed was a violation of RSA 632-A.

V. The claimant may be reimbursed for reasonable out-of-pocket expenses, medical expenses, funeral expenses, counseling expenses and lost wages directly resulting from the crime. No reimbursement shall be paid unless the claimant has incurred reimbursable expenses of at least \$100. There shall be a \$5,000 ceiling on recovery per claimant per incident. If expenses paid through the victims' as-

sistance program fund are later covered by insurance settlements, civil suit settlements, or restitution, or through any other source, the claimant shall reimburse the fund for the amount of expenses recovered.

21-M:8-f Administration of Fund.

I. Subject to the availability of money in the victims' assistance fund, the attorney general shall make grants totaling not more than 55 percent of the victims' assistance fund, for the establishment and maintenance of victim assistance programs. The attorney general may, in awarding funds under this section, give preference to those counties not already served by a victim assistance program.

II. A victim assistance program is eligible to receive grants under this section if such program:

(a) is within the office of a county attorney; or

(b) is operated by a public agency or a private nonprofit organization or a combination of such agencies or organizations and provides services to victims of crime, and

(1) demonstrates a record of providing effective services to victims of crime and financial support from sources other than the fund; or

(2) substantial financial support from sources other than the fund.

III. A victim assistance program shall expend sums received under this section only for providing services to victims of crime.

IV. No more than 15 percent of the money in the victims' assistance fund shall be used by the attorney general for the costs of administration of the victims' assistance fund and the administrative costs of the victims' assistance commission.

V. The remainder of the money in the victims' assistance fund shall be used by the attorney general for the compensation of victims in accordance with RSA 21-M:8-e.

21-M:8-g Rulemaking. The attorney general shall adopt rules pursuant to RSA 541-A relative to:

I. The application procedure for victims' assistance claims.

II. The standards which the victims' assistance commission shall apply in making a determination on each claim.

III. The qualifications, nomination procedures, and terms for victims' assistance commission members.

IV. The reimbursement of funds awarded to persons compensated by the victims' assistance fund who later receive compensation for injuries or expenses from other sources.

3 New Paragraph; Additional Assessments on Fines for Criminal Offenses. Amend RSA 651:2 by inserting after paragraph II-e the following new paragraph:

II-f. In addition to, and at the same time any fine is assessed to any criminal defendant, there shall be levied an additional penalty of 3 percent of every fine imposed and collected by the courts for criminal offenses. Where multiple offenses are involved, the penalty assessment shall be based upon the total fine for all offenses. When a fine is suspended, in whole or in part, the penalty assessment shall not be suspended. All such assessments shall be sent monthly by the court to the office of the state treasurer, where the collected fund shall be credited to the victims' assistance fund.

4 Effective Date.

I. Section 3 of this act shall take effect July 1, 1988.

II. The remainder of this act shall take effect January 1, 1989.

AMENDED ANALYSIS

This bill, as amended, creates a victims' assistance program to be administered by the department of justice. The bill establishes a victims' assistance commission, with not more than 5 members to be appointed by the attorney general, to review claims and make compensation awards from a victims' assistance fund. The attorney general is granted the authority to make rules regarding the commission and compensation of victims.

The victims' assistance fund is established as a special fund within the state treasurer's office and shall consist of court assessments upon fines for criminal offenses. Up to 55 percent of the fund shall be used by the attorney general to make grants to public and private victim assistance programs. Up to 15 percent shall be used for administration costs. The remainder of the fund shall be used for compensation awards.

This bill makes eligible for compensation victims of felonies resulting in personal injury or victims of injuries caused by persons driving under the influence. If the victim dies as a result of the crime, the victim's relatives may claim compensation. The claimant may be reimbursed up to \$5,000 for reasonable out-of-pocket expenses, medical expenses, funeral expenses, counseling expenses, and lost wages.

Amendment adopted. Referred to Finance (Rule #24)

HB 606-FN, relative to lock-up of children. Ought to Pass with Amendment. Senator Krasker for the Committee.

SENATOR KRASKER: Because it's a bill with many parts, our committee had a fact sheet for 606 prepared for you which I think will be very helpful to Senate Finance, as well the bill goes there. I

won't go through the entire fact sheet, only the most important sections, but I will tell you that the bill came to us, which was a bill to provide for alternate detention for juveniles. At the public hearing it became obvious to us, from testimony, that what we were providing for, the fact that we should have alternate detention centers, we weren't really providing for any in the State. So, working with DCYS and with the members of the House committee on children, youth and elderly affairs, we held a work session at the Philbrook Center. We spent half a day there, we toured the facilities, we came back and at a later date had another work session where we tried to work out any disagreements that there might be with the bill. It was our decision, finally, to expand the bill to include what you see on the second page. It will expand the current ADC unit from 16 to 23 placements, convert the five day a week special education program to a seven day program and develop an in-patient psychiatric treatment center for children who need secure placement, and for treatment in the Finch Building, an increase from 14 to 28. There is a price tag on the bill, but we have the figures from DCYS to show that the savings that will be realized from placing juveniles in state, rather than in expensive out-of-state placements, will more than cover the cost of the bill. We think it makes sense to do this, from every standpoint, including the fiscal one.

AMENDMENT TO HB 606-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the lock up of children, the Anna Philbrook Center, and making an appropriation therefor.

Amend RSA 169-B:2, II, as inserted by section 1 of the bill by replacing it with the following:

II. "Alternative to secure detention" means any local program, approved by the court, police, probation, or the division for children and youth services, which offers a less restrictive alternative to secure detention for minors. Such programs include, but are not limited to, youth attender, crisis home placement, group homes which have entered into agreements with the division for children and youth services to provide such care, truant and runaway programs, and alcohol and drug detoxification programs.

Amend RSA 169-B:2, VIII as inserted by section 1 of the bill by replacing it with the following:

[V.] VIII. "Conditional release" means a legal status created by court order following an adjudication that a child is delinquent whereby the minor is permitted to remain in the community, including his home, subject to:

(a) The conditions and limitations of his conduct prescribed by the court;

(b) Such counselling and treatment as deemed necessary, pursuant to methods and conditions prescribed by the court, for the minor and his family;

(c) The supervision of a juvenile services officer or volunteer counselor, as authorized by RSA 504:19; and

(d) Return to the court for violation of conditional release and change of disposition at any time during the period of conditional release.

Amend RSA 169-B:9-a as inserted by section 2 of the bill by replacing it with the following:

169-B:9-a Use of Alternatives to Secure Detention. An officer may release a minor to an alternative to secure detention, with court approval, pending the arrival of the parent, guardian, or custodian. The alternative program may release the minor to the parent, guardian, or custodian upon their arrival. Any court or police or juvenile services officer, acting in good faith pursuant to this section, shall have immunity from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of release to an alternative to secure detention.

Amend RSA 169-D:9-a as inserted by section 7 of the bill by replacing it with the following:

169-D:9-a Use of Alternative to Secure Detention. An officer may, with court approval, release a child to an alternative to secure detention as defined in RSA 169-D:2, pending the arrival of the parent, guardian, or custodian. The alternative program may release the child to the parent, guardian, or custodian upon their arrival. Any court, police, or juvenile services officer, acting in good faith pursuant to this section, shall have immunity from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of release to an alternative to secure detention.

Amend the bill by replacing all after section 7 with the following:

8 Statement of Purpose. The general court has taken a special and devoted interest in the needs of children in residential placements served by the division for children and youth services. The general

court has responded not only with funding but also with care and effort to assure that these children receive the necessary and appropriate services. The general court recognizes that residential placement is an evolving process, and that as improvements and changes are made and our state grows in population, new issues develop and must be confronted. The general court further recognizes that the state has experienced significant increases in costs for children needing residential treatment and that such placements are not available to the extent they are needed within the state. Therefore, the general court proposes the following solutions to this problem, by making use of facilities at the Anna Philbrook center for children and youth.

9 Use of Anna Philbrook Center for Inpatient Psychiatric Treatment Facility. The Finch Ward of the Anna Philbrook center shall be used as an inpatient treatment facility for up to 14 children. Use of such ward will provide an inpatient psychiatric treatment facility within the state on available property.

10 Expansion of the ADC Unit at Anna Philbrook Center. To accommodate the increase in placements made under RSA 170-G:10, II, the number of beds in the awaiting disposition of the court unit shall be increased to 23. The division of mental health and developmental services shall transfer the use of the Tobey building to the division for children and youth services in order to effect this increase.

11 Conversion of Special Education Program at Anna Philbrook Center. The staff and property of the special education program at the Anna Philbrook center shall be used to convert the special education program to 365 days, and to allow for court ordered placements and residential treatment referrals. The total number of children placed in this program shall be 23.

12 Supplemental Appropriation. The sum of \$1,552,584 for the fiscal year ending June 30, 1989, is hereby appropriated to the division for children and youth services, department of health and human services, for the purposes of this act and to facilitate the hiring of 2 full-time night youth counselors at the Anna Philbrook Center. This appropriation shall be nonlapsing and shall be in addition to other sums appropriated to the division for children and youth services. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

13 Certification of Shelter Care Detention Beds. On or before December 31, 1989, the division shall certify to the administrative office of the courts of the New Hampshire supreme court 60 geographically distributed shelter care detention beds. Thereafter,

the division shall maintain an appropriate number of shelter care detention beds, based on the certificate of need formula as established in rules adopted pursuant to RSA 170-G:5.

14 New Paragraph; Release to the Division if No Vacancy in Shelter Care. Amend RSA 169-D:10 by inserting after paragraph II the following new paragraph:

III. Should there be no shelter care detention bed available, nor an appropriate parent, guardian, or custodian as defined in paragraph II of this section available, the court or the officer taking the child into temporary custody shall notify the division. If the child cannot be referred to an alternative to secure detention, the court shall make an order authorizing the division to place the child. The division shall then promptly arrange for placement of the child.

15 Appropriation. The sum of \$77,584 is hereby appropriated for the fiscal year ending June 30, 1989, to the division for children and youth services for the establishment of a 24-hour placement line, including 3 coverage staff positions, equipment, and toll-free line. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

16 Effective Date.

I. RSA 169-D:9-b as inserted by section 7 of this act, and section 14 of this act, shall take effect on December 31, 1989, or 60 days after the certification of 60 shelter care detention beds as provided in section 13 of this act, whichever occurs first.

II. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill adds definitions to the chapters on delinquent children and child caring and placing agencies to clarify the meaning of various terms.

It also provides for the use of alternatives to secure detention when temporarily holding delinquent children or children in need of services.

The bill also makes statutory changes to accommodate the addition of references to alternatives to secure detention.

The bill also adds a provision to prohibit the detention of children in need of services in an adult correctional facility.

This bill makes a supplemental appropriation of \$1,552,584 for fiscal year 1989 to the division for children and youth services for use at the Anna Philbrook Center. The bill provides that the ADC unit be expanded, and the special education program be converted to a 365 day program. To accommodate the expansion of the ADC unit, the bill transfers the use of the Tobey building from the division of

mental health and developmental services to the division for children and youth services. Part of the appropriation in this bill is to facilitate the hiring of 2 full-time night youth counselors at the center.

The bill also appropriates \$77,584 for fiscal year 1989 to the division for children and youth services to establish a 24-hour placement line, including staff, equipment, and toll-free line.

Amendment adopted. Referred to Finance (Rule #24)

HB 797, relative to regulating the sanitary conditions of restaurants. Inexpedient to Legislate. Senator White for the Committee.

SENATOR WHITE: Basically, all the bill did was to repeal one section of the RSA's. That was a law that we just adopted in 1987, dealing with restaurants and we really hadn't had a chance to find out if it was really going to work or not so, we felt that we shouldn't be repealing it that soon.

Adopted.

HB 822, relative to prescription refills. Inexpedient to Legislate. Senator Bond for the Committee.

SENATOR BOND: This bill, if it were passed, would provide for dispensing of temporary refills of prescriptions when a doctor was not available on a weekend, or something like that. We were told by the board of pharmacy that they did not favor this, that they already take care of every urgent situation on a best judgement basis and that this would create pressure on them that they feel would be unnecessary. There is, in fact, only evidence of one situation and in that case that person did get their prescription without this law. We feel that it is unnecessary and recommend inexpedient.

Adopted.

HB 853-FN, exempting the WIC program from state indirect cost rate requirements. Ought to Pass with Amendment. Senator Krasker for the Committee.

SENATOR KRASKER: The WIC program is a federally funded program and HB 853, as amended, provides for the appropriation of \$100,000 to cover the indirect cost that are currently being deducted by the State from federal funds the WIC program receives. The WIC program has operated in New Hampshire for 12 years and pro-

vides for supplemental food, nutrition, education and health care to over 13,000 low income pregnant and nursing women and infants and children under five years of age, who meet the eligibility requirements. They include health and nutritional screening. The services are provided by nine health and human service agencies in New Hampshire who contract with the New Hampshire division of public health. The preventive services offered by the local WIC agencies have reduced the need for more expensive medical care. The problem is, the federal funding has not kept up with inflation and due to a change in the federal funding formula, New Hampshire is only guaranteed 90% of it's previous funding level. We are trying to provide, in state funds, the amount that New Hampshire will be reduced in federal funding. The additional \$100,000 will enable the WIC program to continue to serve the numbers of people currently being assisted plus we believe, if the figures are accurate, an additional 500 persons a month.

SENATOR DUPONT: Senator, if you go through the first three paragraphs of this bill it appears, and I'm familiar enough with the program, I guess at this point in time, to know that there is a great benefit to the state from this program, but you mentioned that the federal shortfall is the reason why we're doing it and I guess I'd ask you to point to the fiscal impact statement which in fact says that revenues are going to increase 2% per year on the federal level into this program.

SENATOR KRASKER: The information we received at the hearing was that we would be receiving 90% of what we currently receive. As you and I know, very often the fiscal impact statements can be inaccurate. I went, in giving you this information, from the testimony given to us at the hearing that there would be a reduction.

SENATOR DUPONT: Senator, would you also believe that we're having a difficult time down in Senate Finance to find funding for all of the things that everybody wants to do. The question, I guess, is we have a program here that, by state law, is required to pick up its indirect cost. What we're basically doing with this bill, are we not taking \$100,000 away from something else that we might fund that may be just important as this program?

SENATOR KRASKER: That was why, Senator, we used this route of a direct appropriation, rather than, if you notice what the bill called for, it called for or making up for the indirect cost. We decided that was a precedent that we didn't want to establish, of having the

State pick up indirect cost, that we felt it was just better to send the bill to Finance with a direct appropriation. We could have said one dollar; you would have gotten the bill anyway.

SENATOR DUPONT: I rise, obviously, not in opposition to the program but in opposition to the intent of this bill and I think this is a situation where we, I believe, have to act very, very cautiously. We have a program out there that I feel does serve a good benefit to the State of New Hampshire. We are now in the second term of this legislative session and as the members of Finance know, it is very, very difficult to find money to fund new programs in this second session of this legislature and, in fact, we're having a difficult time even to meet commitments on existing programs that are underfunded. We have in place, as this bill originally specifies, a State law that requires the deduction of indirect costs and although the intent of Senator Krasker is good, she's accomplishing the same thing basically by going for a direct appropriation. It doesn't make it any more palatable to me to think that what we're only doing here is picking up the indirect cost that we're supposed to pick up, by law, for this program from the federal funding. So, I would ask all of you to consider that when you make your vote on this and it certainly is going to be a vote against this program, but a vote against what I think has been a sound state policy of how we utilize these federal funds. I would just urge some caution on behalf of the members of this Senate when we start making, I think, some significant changes in the way we're going to handle the federal funds.

SENATOR MCLANE: I rise in strong support of sending this bill down to Senate Finance to make what Senator Dupont said will be difficult decisions. But, I do feel strongly that this bill is cost effective. The testimony was that 500 women and children would not be served unless this appropriation was passed. Yet, the other testimony was, that a single low-birthweight baby, average cost in a neonatal unit can be \$38,000, so that three of these babies, born under weight could cost the medicare program as much as the appropriation that we are asking Senate Finance to make. I believe that this is a decision that will be looked over carefully in Senate Finance and I think that when the full testimony of the absolute monetary value of the WIC program is heard, that it will be clear that this is an investment that the State should make, so that the WIC program will not serve fewer people than it did last session.

SENATOR FREESE: I was approached last fall, from the agency that administers this WIC program, to support the bill as it originally appears here. We rode back and forth several times and I was

uncomfortable with being a sponsor on this bill for the same reasons that Senator Dupont has explained to the Senate this afternoon. I'm familiar with the WIC program, we have some of our young employees on the program and it's a good program. But, where do you start and where do you stop in funding these programs, particularly in a year of supplemental budget? I would also urge this body to consider the money bills that the House has passed and the money bills that the Senate has to deal with and choose, and this may be one, that we could forego this year and give some other priority because the program is in operation. It is a good program, but if we need this \$100,000 somewhere else, rather than dipping further in the State coffers, I think this could be one that was deferred. On that basis, I will not be supporting it here today.

SENATOR BLAISDELL: As a member of Senate Finance, chairing Finance, I would hope that you would pass this piece of legislation down to us so we can take a hard look. I, too, have a problem with the funding of indirect cost. I think this is a real departure and I would like to get it down into Finance to see if we can't do something with the bill. I think it's a very important program.

SENATOR BOND: I'd like to reinforce what Senator Blaisdell has said. There are few programs in this State, which are, what I sort of call a grassroots program, there is no fluff and bells and jingles to them. WIC and Head Start are two of those that touch the basic child in our State and makes the difference between what he becomes with and without it. I suggest that we should look at the finances in Finance.

AMENDMENT TO HB 853-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the WIC program, and making
an appropriation therefor.

Amend paragraph III of section 1 of the bill by replacing it with the following:

III. At present, the WIC program is required by law to deduct indirect costs from federal funds it receives. The legislature recognizes that providing state funds to cover indirect costs would make more funds available for WIC program operations.

Amend the bill by replacing section 2 with the following:

2 Appropriation. There is hereby appropriated the sum of \$100,000 to the division of public health services, department of health and human services, for the fiscal year ending June 30, 1989, for the purpose of providing for indirect costs associated with the WIC program. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

AMENDED ANALYSIS

This bill appropriates \$100,000 to the division of public health services for fiscal year 1989 to cover indirect costs of the WIC (women, infants and children) nutrition program.

Amendment adopted. Referred to Finance (Rule #24)

HB 1152-FN, changing the name of the Laconia state school and training center. Ought to Pass. Senator Bond for the Committee.

SENATOR BOND: The Laconia State School and Training Center is a thing of the past. They are now down from 1200 residents to approximately a hundred residents. The facilities are now being utilized by the State for other things, such as ODAPT, Fish and Game, and nonprofit programs that are leasing space from the State. The bill, in its statement of purpose, says that the area will be known as the New Hampshire Community Services Center. What this does is, what we did in the past for Glencliff, when we took away the name State Sanatorium and the Youth Development Center when we took away the name Industrial School, we'd now like to take away and do away with the name State School and Training Center and call it Laconia Developmental Services.

Adopted. Ordered to Third Reading.

Recess.

Out of Recess.

Senator Dupont in the Chair.

HB 1162-FN-A, relative to AIDS education, prevention and control and making an appropriation therefor and relative to testing for the AIDS virus for insurance purposes. Ought to Pass with Amendment. Senator Krasker for the Committee.

SENATOR KRASKER: HB 1162 is fundamentally the same bill that we heard a year ago, relative to AIDS education, prevention and control. Because the bill failed in the last session and was really

basic to what public health was proposing as the New Hampshire plan for dealing with AIDS, it was studied during the summer by a House committee and this bill was drafted. Senator Torr and I attended many of the meetings and there seemed to be general agreement on the emphasis of the bill, which was education and testing, and with authority given to the Public Health, both for preparing AIDS educational materials and for increased ability for testing and certification of laboratories. Again, it had the inclusion of informed consent and confidentiality requirements as in the original bill, because Public Health felt that they were basic to the bill. When the bill went to the House, there was an amendment on the bill which had to do with insurance practices and this section of the bill was placed under the department of insurance.

In the original bill, also, was an affidavit providing for the distribution of a brochure to people who applied for a marriage license. I can tell you, that last year when we heard this bill there were 30 cases of AIDS in the State, identified cases, there are now 60. There are 300 confirmed HIV infected individuals in New Hampshire now. There maybe a 1,000 or more, we can't be sure, and because there is no preventive vaccine, there are only two weapons now to fight AIDS; education and testing, they are included within this bill. New Hampshire is about 3 to 4 years behind some other urban areas, in the progression of the AIDS virus, but it will probably follow the same pattern. Public Health feels it will. So, the eight positions that were added within this bill will allow for the implementation of this State planned by Public Health, all of them have been carefully planned, they have specific functions. They are necessary to carry out what is involved in this plan and it was the decision of our committee that those eight positions be maintained. We did have an amendment that three of them be transferred to the department of education and it's our hope that when this bill goes to Finance, if Finance determines that additional educational positions, positions in the department of education, are needed, they will add positions and not take positions away from Public Health. It's an involved bill. I'm happy to answer questions about any section.

SENATOR JOHNSON: What provisions are there in this bill that would assure us that there will be cooperation between the division of public health and the department of education in the carrying out of this educational program?

SENATOR KRASKER: The bill gives the authority to the division of public health to develop material, health materials, but there are many other materials available from other States, which can be used

by the department of education and I would offer this to you to look at. At the hearing, which by the way was a four-hour hearing, both of the departments indicated that they would be cooperating very, very closely.

SENATOR BARTLETT: On this bill, I suggest that we do send it down to Finance. There are some technicalities that need to be worked out and a few more days on that, I believe, we can come to some type of a solution so that we'd be able to pass an AIDS bill which is acceptable to the people of New Hampshire and will benefit them all.

AMENDMENT TO HB 1162-FN-A

Amend section 1 of the bill by inserting after paragraph II the following new paragraph:

III. Any materials, courses and programs distributed, developed, or provided by the division shall stress that abstinence or a monogamous relationship and avoiding drugs are the most effective ways to prevent contracting the human immunodeficiency virus.

Amend the introductory paragraph of RSA 141-F:5 as inserted by section 2 of the bill by replacing it with the following:

141-F:5 Informed Consent for Testing; Exceptions. Except as provided in this section, no physician or advanced registered nurse practitioner licensed or registered to practice in this state, no employee of a health care facility licensed under RSA 151, whether paid or unpaid, and no employee of a blood bank, blood center, plasma center, or agency which receives blood donations, whether paid or unpaid, may test for the presence of an antibody or antigen to a human immunodeficiency virus unless the person being tested consents in writing after being informed about the medical interpretations of positive and negative test findings and the applicable provisions of RSA 141-F:7 and 141-F:8. Testing without consent may occur in the following situations:

Amend the introductory paragraph of RSA 417:4, XIX and RSA 417:4, XIX(a) as inserted by section 9 of the bill by replacing them with the following:

XIX. Human Immunodeficiency Virus. No person engaged in the business of insurance in this state shall test for the presence of an antibody or antigen to a human immunodeficiency virus other

than in accordance with the provisions of this paragraph. Such persons shall not be subject to any provision of RSA 141-F.

(a) No person may test any individual in connection with an application for insurance for the presence of an antibody or antigen to a human immunodeficiency virus unless such individual gives written consent on a form designed by the commissioner with the consultation and approval of the director, division of public health services, department of health and human services. The form shall contain information about the medical interpretations of positive and negative test findings, disclosure of test results, and the purpose for which the test results may be used.

Amend RSA 417:4, XIX(c)(2) as inserted by section 9 of the bill by replacing it with the following:

(2) such other person or entity as the individual tested may authorize by written consent to receive the test results, which consent shall be clearly identifiable as part of the form described in subparagraph (a) of this paragraph; provided, however, that any such consent, other than with respect to the person engaged in the business of insurance to whom the individual being tested has applied for insurance, shall be at the option of the individual tested and shall not be a precondition for or requirement of any application for, or issuance of a policy of insurance.

Amend RSA 417:4, XIX as inserted by section 9 of the bill by inserting after subparagraph (d) the following new subparagraphs:

(e) A person who requires the test for the presence of an antibody or antigen to a human immunodeficiency virus shall maintain all test results and records pertaining to test results as confidential and protected against inadvertent or unwarranted intrusion. Such test results obtained by subpoena or any other method of discovery shall not be released or made public outside the proceedings.

(f) The commissioner shall adopt rules, under RSA 541-A, relative to:

(1) Recordkeeping designed to maintain the confidentiality of an individual tested under this paragraph.

(2) Who may have access to such records and the conditions of such access.

Amend the bill by replacing all after section 9 with the following:

10 Report Required. The insurance commissioner shall make a report no later than January 1, 1991, to the general court relative to

the number of persons tested pursuant to RSA 417:4, XIX and the number of persons denied insurance as a result of such test results.

11 Legislative Intent. Notwithstanding RSA 417:4, XIX, the legislature expresses neither approval nor disapproval of the current practice of an insurance company testing for the human immunodeficiency virus.

12 Implementation. The division of public health services shall not implement RSA 141-F:6 as inserted by section 2 of the bill until 60 days after the division has adopted rules pursuant to RSA 541-A and RSA 141-F:4.

13 Effective Date.

I. Sections 3, 4, 5, 6, and 9 of this act shall take effect 120 days after its passage.

II. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill authorizes the division of public health services, department of health and human services, to test for the human immunodeficiency virus and its variants which are the causative agents of acquired immune deficiency syndrome (AIDS).

Under this bill, the division of public health services shall:

(a) Provide information and educational materials to the department of education, school boards, health care providers and facilities, and others.

(b) Conduct training seminars for certain health care professionals.

(c) Provide laboratory testing services to detect the presence of the antibody or antigen to the human immunodeficiency virus.

(d) Certify other laboratories to test human blood samples for the antibody or antigen to the human immunodeficiency virus.

(e) Conduct follow-up investigations on tests which are serologic positive.

The bill implements an informed consent procedure before any person may undergo testing for the virus and establishes procedures for disclosure and confidentiality in reporting test results.

The bill also authorizes the police standards and training council, the fire standards and training commission, and the emergency medical services coordinating board to offer materials prepared by the division and, if appropriate, conduct training sessions for police, fire and emergency medical service persons.

The bill further requires town and city clerks to distribute a brochure provided by the division to persons applying for a marriage license.

The bill creates 8 classified full-time permanent positions within the division of public health services to carry out the provisions of this act. The bill appropriates \$442,416 for the biennium ending June 30, 1989, for the purposes of this act.

The bill, as amended, establishes certain criteria to be followed if a test for the presence of an antibody or antigen to a human immunodeficiency virus is to be performed by any person engaged in the business of insurance.

The bill, as amended, establishes a policy that any materials, courses and programs distributed, developed, or provided by the division to stress that abstinence or a monogamous relationship and avoiding drugs are the most effective ways to prevent the human immunodeficiency virus.

Amendment adopted. Referred to Finance (Rule #24)

Recess.

Out of Recess.

Senator Bartlett in Chair.

HB 744, relative to contracts for the retail installment sales of motor vehicles. Inexpedient to Legislate. Senator Heath for the Committee.

SENATOR HEATH: The sponsor of this bill didn't know what it was all about and she got the idea when she was at a party, she said. While we can forgive her, I don't think we can forgive the House for sending over such a piece of nonsense.

Adopted.

HOUSE MESSAGE

HOUSE REQUEST CONCURRENCE WITH AMENDMENT

SB 267-FN, relative to child passenger restraints in motor vehicles.

Senator Podles moved to concur.

Roll Call requested by Senator Hounsell.

Seconded by Senator Stephen.

The following Senators voted yes: Bond, Freese, Hough, Dupont, Disnard, Blaisdell, Pressly, Nelson, McLane, Podles, Johnson, Torr, Preston and Krasker.

The following voted no: Hounsell, Heath, Chandler, Roberge, White, Charbonneau, Stephen, St. Jean and Delahunty.

14 Yeas

9 Nays

Motion Adopted.

COMMITTEE REPORTS

HB 924, to increase the age limit relative to the motor vehicle child restraint requirement. Ought to Pass. Senator Preston for the Committee.

Senator Preston moved to lay HB 924 on the table.

Division vote:

13 yeas

11 nays

Motion adopted.

HB 1008-FN, relative to after market parts. Ought to Pass with Amendment. Senator Preston for the Committee.

SENATOR PRESTON: This bill, as amended, regulates the use of after-market parts in motor vehicle repairs and requires a disclosure when a use is proposed of nonoriginal aftermarket parts of vehicles, such as fenders, hoods and so forth. David Kearns, the assistant insurance commissioner, had presented this bill as its before us, in the House and the insurance commissioner has been working with the repair association on this matter and we think this is an excellent start to protect the consumer and urge passage.

SENATOR JOHNSON: I rise in support of the committee amendment here and would like to share with the body that this will indeed provide for consumer protection, it will, in addition, promote competition in the use of after-market parts. It has the support of the insurance industry representative and also State Farm, as well as our insurance department.

AMENDMENT TO HB 1008-FN

Amend RSA 407-D:5, I as inserted by section 2 of the bill by replacing it with the following:

I. Any violation of this chapter by an insurer shall be deemed an unfair insurance trade practice under RSA 417. Insurers violating any provision of this chapter shall be subject to penalties under RSA 417:10.

Amendment adopted. Ordered to Third Reading.

HB 1188-FN, establishing age limits for the operation of OHRV's. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: Nine people appeared in favor of the bill; including physicians, snowmobile association members, medical society and private citizens. They all agreed that there is a need for regulation of off highway recreation vehicles. The division of bureau of off highway vehicles appeared in favor of the bill and feel that there should be some kind of training to all users who do not have some operational training. The Fish and Game Department and they did not oppose the intent of the bill, but had some concerns with the mechanics of it, and it was decided to hold a work session with representatives from the Fish and Game, Snowmobile Associations, a member of the Transportation committee, as well as the House Fish and Game Committee and Representative Dr. Wilson. As a result of that session, an amendment was brought in by the parties and all are in agreement. The committee unanimously agreed upon the amendment that appears in your calendar and we urge your support at this time.

AMENDMENT TO HB 1188-FN

Amend the title of the bill by replacing it with the following:

AN ACT

establishing age limits for operators of off highway recreational vehicles and amending compliance dates for manufacturers of all terrain vehicles.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Operators of OHRV's to be at least 16 Years Old. Amend RSA 215-A:6 by inserting after paragraph I the following new paragraph:

I-a. No person under 16 years of age shall operate an OHRV, except as provided in RSA 215-A:29. Notwithstanding any other provision of RSA 215-A, no person less than 12 years of age shall operate any OHRV other than a snow traveling vehicle operated pursuant to RSA 215-A:29 unless he is on land owned or leased by his parent, grandparent, or guardian.

2 License or Safety Course Required. Amend RSA 215-A:6, X(d) to read as follows:

(d) The operator shall possess a valid motor vehicle [operator's] driver's license[;] or[, if said operator is age 12 or above, he] shall have successfully completed the approved OHRV safety training course.

3 Operation After Revocation; Public Highways. Amend RSA 215-A:9, VIII to read as follows:

VIII. Notwithstanding RSA 215-A:29, II, no person shall operate an OHRV upon or across a public [way] highway [where a motor vehicle operator's license is required] if his [right to do so] motor vehicle driver's license has been suspended or revoked by the director of motor vehicles.

4 All Terrain Vehicle Manufacturers. Amend RSA 215-A:12, VIII, IX, and X to read as follows:

VIII. No person shall operate, sell, or offer for sale in this state any ATV manufactured after January 1, [1989] 1990, which does not have a working headlight which is designed to stay on at all times that the ATV is in operation.

IX. No person shall operate, sell, or offer for sale in this state any ATV manufactured after January 1, [1989] 1990, which does not have a working brake light on the rear of the ATV.

X. No person shall operate, sell, or offer for sale in this state any ATV manufactured after January 1, [1989] 1990, which is not equipped with a location on the front and rear of the ATV specifically for the placement of registration plates or decals, which measure 3-1 2 inches by 6 inches.

5 OHRV License and Operation; Age Limitation. Amend RSA 215-A:29, I-V to read as follows:

I. No person under [12] 16 years of age shall operate an OHRV unless he is on land owned or leased by his parent, grandparent, or guardian, or unless he is accompanied by a person 18 years of age or over who has assumed the responsibility, and who shall be liable according to law for personal injury or property damage to others which may result from such operation.

II. [A] No person shall [not need a license to] operate a snow traveling vehicle or OHRV [unless he operates] upon any lands including [or across] a public highway or any portion [thereof] of such highway, any public land of the state, [in which case] or upon a frozen surface of a public body of water as defined in RSA 215-A:1, XI unless said person [must be] is at least 16 years of age and [be] is licensed to drive a vehicle in accordance with the provisions of RSA 263, except that any unlicensed person either a resident or a nonresident over the age of 12 years who has successfully completed an approved OHRV safety training course, shall be allowed to operate [a snow traveling vehicle or trail bike] an OHRV, to include operation

upon public lands of the state, across a highway as directly as possible or upon a frozen surface of a public body of water as defined in RSA 215-A:1, XI. Such unlicensed person shall carry with him at all times while operating a snow traveling vehicle or OHRV evidence of the completion of an approved OHRV safety training course. Otherwise, a nonresident of this state must be at least 16 years of age and be duly licensed to drive a motor vehicle in the state of his residence. [Neither a resident nor a nonresident at least 16 years of age shall be required to have a motor vehicle driver's license while operating a snow traveling vehicle or OHRV upon any frozen surface of a public body of water pursuant to RSA 215-A:6, XI.] The provisions of this section shall not apply to a person operating an OHRV upon land owned or leased by him or, in the case of a minor, upon lands owned or leased by a parent, grandparent, or guardian. A person under age 12 operating pursuant to RSA 215-A:6, I-a or RSA 215-A:29, I, shall not be required to have an OHRV safety certificate. Said person under age 12 shall not operate an OHRV upon or across a public highway.

III. Notwithstanding the provisions of this section, any operator holding a certificate of [competence] completion from an approved OHRV safety training [class] course authorized by the [state of] New Hampshire department of fish and game may operate an OHRV, except upon a public highway, under the following provisions:

(a) [Beginning April 1, 1983,] A person who is at least 12, but less than 16, years of age may operate an OHRV if one of the following conditions exists:

(1) The person is under direct supervision of a person who is 18 years of age or older; or

(2) The person has in his or her immediate possession an OHRV safety certificate issued pursuant to this chapter; or

(3) The person is on land owned, or under the control of, his or her parent, grandparent, or legal guardian; or

(4) The person possesses [a snow traveling vehicle] an OHRV safety certificate issued to the person under the authority of law of another state or of a province of Canada.

(b) A person who is operating an OHRV pursuant to this section shall present the OHRV safety certificate to any law enforcement officer who is empowered to enforce this section upon demand of said law enforcement officer.

IV. The owner of an OHRV shall not permit the OHRV to be operated contrary to this section.

V. When the judge of a juvenile court determines that a person who is less than 16 years of age has violated this section, the judge shall immediately report the determination to the state fish and

game department. If the person holds an OHRV safety certificate, the executive director of the fish and game department, upon receiving a notice of a determination pursuant to this section, may suspend the person's OHRV safety certificate without a hearing.

6 New Paragraph; Training Exemption; Unlicensed Adults. Amend RSA 215-A:29 by inserting after paragraph XVII the following new paragraph:

XVIII. Any person at least 21 years of age who is not licensed to drive a motor vehicle, and whose license to drive has not been suspended or revoked by the director of motor vehicles, shall be issued an OHRV safety certificate upon demonstrating a satisfactory knowledge of the laws, rules and regulations pertaining to OHRV operation and a satisfactory ability to operate an OHRV. Such person shall demonstrate said knowledge and ability to a team of no less than 2 OHRV safety instructors utilizing a testing format approved by the fish and game department. The fish and game department shall cause any certificate issued under the provisions of this paragraph to bear the words "issued in accordance with RSA 215-A:29, XVIII - exempt adult testing".

7 Age Exemption; Training Programs, Organized Meets or Contests. Amend RSA 215-A:30 to read as follows:

215-A:30 Racing.

I. Any person, organization or corporation who wishes to operate or to promote any snow traveling vehicle or OHRV racing meet or contest involving the use of unregistered snow traveling vehicles or unregistered OHRVs shall procure a permit from the executive director. The application for the permit shall be on an annual basis, shall include a listing of scheduled events and shall be accompanied by an annual fee of \$50. Participants in said racing meet or contest shall not be required to register in New Hampshire, but shall operate under the provisions of the permit. Any such participant who is not registered in New Hampshire shall not operate away from the race course or contest area specified in the permit. Distribution of any fees collected under this section shall be in accordance with the provisions of RSA 215-A:23.

II. Notwithstanding the provisions of RSA 215-A:6 and RSA 215-A:29 persons less than 16 years of age may operate an OHRV while not accompanied by a parent or guardian and without an OHRV safety certificate if one of the following conditions exists:

(a) When participating in an OHRV safety education program approved by the fish and game department.

(b) When participating in an organized meet or contest when the organizer of such event has obtained landowner permission and procured a permit from the executive director.

8 New Section; OHRV Injury Statistics Reporting; Safety Programs. Amend RSA 215-A by inserting after section 32 the following new section:

215-A:32-a OHRV Statistics; Safety.

I. The executive director shall report annually to the registrar of vital records and health statistics pursuant to RSA 126:1 on any deaths or injuries occurring in the state related to the operation of OHRVs.

II. The executive director shall approve OHRV safety training courses after consultation with the director, division of public health services.

9 New Paragraph; OHRV Safety Training Course Approval. Amend RSA 125:9 by inserting after paragraph IX the following new paragraph:

X. Consult with and assist the executive director, department of fish and game in the review and approval of off highway recreational vehicle safety training courses.

10 Repeal. RSA 215-A:29, XVIII, relative to adult testing for OHRV certification, is repealed.

11 Effective Date.

I. Section 10 of this act shall take effect March 1, 1989.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

The bill, as amended, prohibits the operation of all terrain vehicles by persons under 12 years of age unless they are on land owned or leased by their parent, grandparent, or guardian. It also requires persons operating OHRVs on public lands or across highways to have a driver's license or have completed an approved OHRV safety training course.

The bill requires the executive director of fish and game to report annually on OHRV-related injuries and deaths to the office of vital records and statistics, division of public health services. The executive director of fish and game is to consult with the director, division of public health services, to review and approve OHRV safety training courses.

Amendment adopted. Referred to Finance (Rule #24)

TAKEN FROM THE TABLE

Senator Hough moved to take HB 551 off the table.

Adopted.

HB 551-FN, establishing a study committee relative to computer-based public records. Ought to Pass. Senator Hough for the Committee.

Senator Hough offered a floor amendment.

SENATOR HOUGH: I would move and encourage my colleagues to adopt the floor amendment to HB 551. This is the amendment which deals with the legislature's ability to access the information in the integrated financial system. This amendment brings to fruition an attempt which the legislature, and its professional staff in the LBA office, have been working to achieve over the last number of years. As you realize, six years ago we reorganized the executive branch of government and, in so doing, brought in the consolidated financial system. A lot of the problems that we've been faced with have been having to correlate the State's basic financial information in various formats and this now establishes, with this co-equal body, a level playing field. It is a fairness issue and it is a very important piece of legislation for the legislature because it allows us, in a timely and in a uniform manner, that information which we need to establish public policy positions in terms with the appropriation process. I would move that you adopt this amendment. The amendment and facts, as was drafted and I understand it had to be that way through legislative services, strikes the bill as it was on the table, puts this section in and then Senator Podles will address a second floor amendment. That's the amendment that has only my name on it, but, in fact, should have her's because it deals with the bill and the subject matter that she worked very hard with in the Judiciary Committee. But she will address that after we adopt the floor amendment that is before us at this time.

SENATOR WHITE: Senator Hough, in your dissertation you indicated that we were a co-equal branch. However, having this bill coming out of the Judiciary committee and on that committee four women sit and yet I don't see where any women have been consulted on this bill so, I wonder if it really is a co-equal branch or is it just a males only group?

SENATOR HOUGH: Senator White, there's too much in jeopardy, I will accede to the sentiments of Senator White and actually say that you are absolutely right. This amendment should have twenty-four members of the Senate's name on it.

Floor Amendment to HB 551-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to computer access by the
legislative budget assistant.

Amend the bill by replacing all after the enacting clause with the following:

1 Reference Deletions. Amend RSA 14:31, V to read as follows:

V. The commissioner of administrative services shall deliver to the legislative budget assistant the official financial information under the control of the commissioner as required by this section in a form unaltered from that which is finally reported in the integrated financial system. [The approval of the governor, the speaker of the house of representatives, and the senate president shall be required for delivery of any other information, other than the official financial information required by this section.] The right of access to information under this section shall not arise until after each transaction or event subject to RSA 91-A has taken place. Such information shall be provided to the legislative budget assistant in a mutually agreeable and compatible format at the end of each business day. The legislative budget assistant shall be subject to the provisions of RSA 21-I:13-a, II. [This paragraph shall not be construed as granting the legislative budget assistant access to any information or any information system relative to the internal functions of the office of the governor or any executive agency, department, board, commission, or institution through the integrated financial system.]

2 New Paragraph; Computers. Amend RSA 14:31 by inserting after paragraph V the following new paragraph:

V-a. The legislative budget assistant, his employees and any consultants engaged by him to assist in the performance of those duties established in RSA 14:31, 14:31-a and 14:31-b, shall be entitled to access, review, analyze, download and extract from the integrated financial system such reports and information as the legislative budget assistant shall determine. Such entitlement shall include, but not necessarily be limited to, the right to use and install such software and hardware which the legislative budget assistant deems appropriate and necessary to effectuate the purpose of this paragraph. The department of administrative services shall provide to the legislative budget assistant such technical assistance and support as he shall require under this paragraph. The legislative budget assistant shall be responsible for the cost associated with his activities in regard to the integrated financial system. Notwithstanding any other provision of law to the contrary, the legislative budget

assistant and all persons acting under his supervision or direction shall not, under any circumstances, alter or cause to be altered any information within the integrated financial system.

3 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

The bill, as amended, allows the legislative budget assistant access to the integrated financial system.

Floor amendment adopted.

Senator Podles offered a floor amendment.

SENATOR PODLES: I have the floor amendment and that was the request of the Governor, the Department of Safety and the Attorney General's office. It sets up a procedure for control over solicitations that take place on State property. It gives the commissioner of Administrative Services the authority to be able to designate areas around public buildings which may be used by individuals or groups who want to demonstrate, protest or disseminate any information. It provides a criminal penalty for a person who conducts this kind of activity in an area designated by the commissioner, without first having a license to do so. The committee recommends ought to pass with amendments.

SENATOR MCLANE: Senator Podles, I think it is appropriate that the commissioner of administrative services have this power, but I would wonder if it should perhaps say upon the advice of the attorney general. I am well aware that the U.S. Supreme Court has just reaffirmed the right of people, such as the Linden LaRouche people, to be present in airports and I know that this is a difficult question and I wonder whether the commissioner of administrative services is the one to make that very delicate and difficult public policy decision?

SENATOR PODLES: Senator McLane, we were told that since he has authority over all of the State buildings, that this would be all right for him to do. This came from the Safety Department and also from the Governor's office.

SENATOR MCLANE: I believe that further emphasizes my question. This did not come from the Attorney General's office and I wonder if you feel that the commissioner of administrative services is well enough aware of those first amendment rights to administer such a law?

SENATOR PODLES: Senator McLane, it was at the request of the Safety Department, the Governor and also the Attorney General's office and he can always consult with the Attorney General's office.

SENATOR MCLANE: Because I know this is a difficult subject, would you be willing to state for the record that it is your assumption that the commissioner of administrative services would consult with the Attorney General over such a decision?

SENATOR PODLES: I'm sure that he will, Senator McLane.

Floor Amendment to HB 551-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to computer access by the legislative budget
assistant and relative to designating areas
of expression at public buildings.

Amend the bill by replacing section 3 with the following:

3 Designation of Areas; Licenses. Amend RSA 21-I by inserting after section 14 the following new section:

21-I:14-a Designation of Areas of Expression.

I. In this section:

(a) "Expression" means any demonstration, protest, dissemination of information or solicitation of funds or support. This definition shall not include activity conducted during and incidental to the carrying on of business with the state in the public building.

(b) "Public building" means any building owned or leased by the state.

II. The commissioner of administrative services shall, upon the request of the head of any of the state agencies occupying a public building, designate areas in or around such public building which may be used by individuals or groups who desire to conduct political, religious, or charitable expression. Such expression shall be limited to these areas. In his designation of these areas, the commissioner shall advance the dual interests of protecting the safety and convenience of the public using the building, and providing the expressing individual or group with ample opportunity to communicate with the public.

III. Use of these areas shall be limited to individuals or groups who obtain a license for such use from the commissioner of adminis-

trative services. The commissioner may establish procedures for obtaining these licenses, which procedures shall provide, at a minimum, that:

(a) No regard be given to the content of the information to be conveyed or the thoughts, beliefs, opinions or goals of the applicant;

(b) The licenses shall be issued on a first-come, first-served basis.

IV. Notwithstanding RSA 21-I:14-a, III, the license shall be valid only so long as the licensee complies with all applicable statutes, rules, or court orders.

V. The designation of areas and licensing procedures for religious, political or charitable expression at public buildings shall not be subject to the provisions of RSA 541-A.

VI. Any person who conducts expression as defined in this section in an area designated by the commissioner of administrative services without having a license to do so shall be guilty of a violation for the first offense and a misdemeanor for any subsequent offense.

4 Exemption. Amend RSA 541-A:10, I, by inserting after subparagraph (m) the following new subparagraph:

(n) RSA 21-I:14-a, relative to the designation of areas and licensing for religious, political, or charitable expression at public buildings.

5 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

The bill, as amended, allows the legislative budget assistant access to the integrated financial system.

The bill, as amended, also provides that the commissioner of administrative services shall issue licenses to persons wishing to conduct political, charitable or religious expression. The bill exempts the designations of areas of expression and the procedures for licensing from the administrative procedure act.

Floor amendment adopted. Ordered to Third Reading.

RECALLED FROM THE GOVERNOR

Senator Roberge moved to put HB 330, relative to an exception to the real estate transfer tax, on second reading at the present time.

Adopted.

Senator Roberge offered a floor amendment.

SENATOR ROBERGE: I intend to offer a floor amendment to correct the effective date on HB 330-FN, that was inadvertently enacted with the incorrect effective date. I would refer you to the floor amendment, paragraph three for the details on the bill. The change takes place, the first paragraph, it changes on the first line, the original was 1987. If you notice there is a 1988 on the first line. That's the change right there. Then, on page two at the very bottom, on section three, we changed that to 1989, it was 1987.

Floor Amendment to HB 330-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

relative to an exception to the real estate transfer
tax and to return of recovered property.

Amend the bill by replacing section 2 with the following:

2 Chapter Nullified. Chapter 43 of the 1988 regular legislative session, relative to return of recovered property, shall be null and void and shall be deemed to never have taken effect.

3 Return of Recovered Property to Rightful Owner. Amend RSA 595-A:6 to read as follows:

595-A:6 Seizure, Custody and Disposition of Articles; Exceptions. If an officer in the execution of a search warrant, or by some other authorized method, finds property or articles he is empowered to take, he shall seize and safely keep them under the direction of the court or justice so long as necessary to permit them to be produced or used as evidence in any trial. Upon application by a prosecutor, defendant, or civil claimants, the court, prior to trial or upon an appeal after trial, [may] shall, upon notice to a defendant and hearing, and except for good cause shown, order returned to the rightful owners any stolen, embezzled or fraudulently obtained property, or any other property of evidential value, not constituting contraband. This section shall apply regardless of how possession of the property was obtained by the state. Photographs or other identification or analysis made of the returned property shall be admissible at trial as secondary evidence, in lieu of the originals, for all relevant purposes, including ownership. In the case of unknown, unapprehended defendants, or defendants wilfully absent from the jurisdiction, the court shall have discretion to appoint a guardian ad litem to represent the interest of such unknown or absent defendants. The judicial findings on such matters as ownership, identification, chain of pos-

session or value made at such an evidentiary hearing for the restoration of property to the rightful owners shall thereafter be admissible at trial, to be considered with other evidence on the same issues, if any, as may be admitted before the finder of fact. All other property seized in execution of a search warrant or otherwise coming into the hands of the police shall be returned to the owner of the property, or shall be disposed of as the court or justice orders, which may include forfeiture and either sale or destruction as the public interest requires, in the discretion of the court or justice, and in accordance with due process of law. Any property, the forfeiture and disposition of which is specified in any general or special law, shall be disposed of in accordance therewith.

4 Effective Date.

I. Section 1 of this act shall take effect July 1, 1988.

II. Section 2 of this act shall take effect upon its passage.

III. Section 3 of this act shall take effect January 1, 1989.

AMENDED ANALYSIS

As amended, this bill exempts a transfer of title to the Trust for New Hampshire Lands when the Trust acquires the real estate for the purpose of transferring title to the real estate so acquired to the land conservation investment program. The exemption only applies to the Trust. The seller, grantor, assignor, or transferor of the real estate is still liable for payment of the tax.

This bill, as amended, requires law enforcement officials to promptly return recovered property to its owner, where there is no dispute over ownership, except for good cause shown, beginning on January 1, 1989. The bill nullifies an identical provision on return of recovered property in 1988, chapter 43, which was effective on January 1, 1988.

Amendment adopted. Ordered to Third Reading.

ENROLLED BILLS AMENDMENT

HB 1091-FN, allowing the insurance commissioner to impose and collect fees for submissions of continuing education courses in the insurance field to reimburse the continuing education advisory council and making an appropriation therefor.

SENATOR CHANDLER: This amendment is necessary to renumber the RSA provision inserted by this bill to avoid duplicating the numbering of the RSA provision already inserted earlier this session by HB 968, which became chapter 17.

Amend the bill by replacing lines 9-10 on page 2 with the following:

inserting after subparagraph (x) the following new subparagraph:

(y) Money received under RSA 400-A:29-a, II, which shall be

Adopted.

ENROLLED BILLS REPORT

HB 731, relative to applications to vote for overseas voters.

HB 755, relative to the Goffstown police department.

HB 766, relative to utility easements.

HB 1063, reviving the charter of KAPPA Sigma House, Inc., Jackson Ski Touring Foundation, Inc., and Granliden Community Association, Inc., nonprofit organizations and making certain changes in the voluntary corporations law.

SB 260, relative to detection of airborne radon in homes.

SB 309, enabling cities and towns to transfer revenues from the land use change tax to the local conservation commission.

SB 333, relative to notaries public, commissioners of deeds, justices of the peace, the department of state, and emergency interim succession.

SB 337, adopting the uniform federal lien registration act.

HB 467, establishing a committee to study the allocation of funds and costs in the Tilton and Northfield union school district.

HB 564, authorizing any city or town to issue revenue bonds.

HB 776, relative to the examination of jurors.

HB 795, relative to motor vehicle liability policies.

HB 831, relative to a one-time reimbursement for oil spill damage and making an appropriation therefor and relative to the administration of the oil pollution control fund.

HB 923, relative to dredging on great ponds.

HB 993, relative to the taking of beaver.

HB 1046, relative to the distribution of tax on pari-mutuel pools.

HB 1090, relative to drugging animals in livestock events and relative to audits of agriculture fairs.

HB 1123, relative to senior justices and to the sentence review division.

HB 1201, authorizing school districts to teach New Hampshire's cultural heritage and ethnic history in school.

SB 245, limiting the horsepower of boat motors on Long Pond in the town of Northwood.

SB 259, relative to child custody.

SB 284, relative to exemption from tolls on the New Hampshire turnpike system.

SB 286, relative to exchanging police information, on a reciprocal basis, with other states.

SB 290, relative to expenditures of funds from the highway surplus account.

SB 299, relative to deeds.

SB 338, relative to a statewide plan for public and private transportation.

RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, April 7, 1988 at 1:00 p.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 625-FN, relative to fees for boats and boat registration, and making certain appropriations.

HB 1062-FN, relative to the advisory committee on state economic development and local population growth.

HB 820, relative to the hunter education program and bow and arrow licenses.

HB 818, relative to the taking of trout.

HB 852-FN, relative to New Hampshire hospital personnel and relative to claims arising from the clinical operation and administration of New Hampshire hospital.

HB 833, relative to the defense and indemnification of housing finance authority officials and employees.

HB 900, extending the reporting dates for the cooperative extension service and fire law study committees and extending the report date and appropriation of the environmental risk insurance fund study commission.

HB 1048-FN, relative to health care benefits for retired employees of political subdivisions.

HB 1186, relative to the establishment of inclusionary zoning and accessory dwelling unit standards and development restrictions.

HB 1150-FN, permitting the attorney general to hire part-time attorneys general.

HB 1067-FN, relative to the penalty for an aggravated DWI offense.

HB 1152-FN, changing the name of the Laconia state school and training center.

HB 1008-FN, relative to after market parts.

HB 551-FN, relative to computer access by the legislative budget assistant and relative to designating areas of expression at public buildings.

HB 330-FN-A, relative to an exception to the real estate transfer tax and to return of recovered property.

Senator Dupont moved that the Senate adjourn.
Adopted.

Adjournment.

Thursday, April 7, 1988

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Oftentimes Lord, we become headstrong, acting upon our own limitations, without seeking help from above! Let us stop, look and listen, as we make the right decisions, and then to the best of our abilities, carry them out! Bless us Lord!

Amen

Senator Chandler led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

COMMITTEE REPORTS

HB 1022-FN, relative to investment of public funds. Inexpedient to Legislate. Senator Dupont for the Committee.

SENATOR DUPONT: Due to some additional information that came in this morning I would ask the Senate to go along with the recommittal of this bill, so that we have an opportunity to review the new information.

THE CHAIR: Does this bill have an appropriation in it?

SENATOR DUPONT: At the present time, I believe it does not.

THE CHAIR: Will it have an appropriation in it?

SENATOR DUPONT: Yes, it could have.

Senator Dupont moved to substitute Ought to Pass for the Committee Report.

Adopted.

Senator Dupont moved to lay HB 1022-FN on the table.

Adopted.

HB 310-A, relative to a second bridge across the Nashua River in the city of Nashua and making an appropriation therefor. Ought to Pass. Senator Torr for the Committee.

SENATOR TORR: HB 310-A requires the department of transportation to participate in the design of a bridge in Nashua over the Nashua River. The funds for this project will be the Nashua Allocation of Urban Funds, 75% of the cost and, the city of Nashua 25% of the cost. It could be pre-financed by the City of Nashua. This project would not cost the State of New Hampshire any money.

Adopted. Ordered to Third Reading.

HB 313-A, relative to the widening, realignment, and improvement of the Route 3-A and Pinecrest Road intersection in Litchfield. Ought to Pass. Senator Torr for the Committee.

SENATOR TORR: HB 313-A provides for highway improvements in Litchfield at the intersection of Route 3-A and Pinecrest Road. This project would cost \$850,000 which would be derived from the highway fund.

Adopted. Ordered to Third Reading.

HB 832, establishing a 10-year bridge construction and reconstruction plan. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR: HB 832 establishes a 10-year bridge plan. There are four amendments on it. The amendment adds the Plymouth-Holderness bridge.

The second amendment provides a waiver for a bridge construction in the town of Salisbury, from 15 ton to 10 ton, and allows the ability to take and transfer from federal funds to state aid and local match.

The third amendment deals with the Cornish-Windsor Bridge, which shall be constructed under the ten ton load limit versus the 15 ton load limit, thereby saving the State of New Hampshire roughly \$500,000. It also sets up a joint committee on highway and bridge plan oversight and this committee is composed of five Senators and five Representatives. The committee should develop information and compare recommendations for legislative actions, to continue to update with State Highway and bridge reconstruction and reconstruction plans. The committee shall determine priority of projects after receiving the recommendations by the department of transportation.

Amendment to HB 832

Amend paragraph I as inserted by section 2 of the bill by inserting after subparagraph (ss) the following new subparagraph:

(tt) Plymouth/Holderness 046/139	NH 175A/Pemigewasset River SD, EX *
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Amend section 5 of the bill by replacing it with the following:

5 Mountain Road/Blackwater River Bridge in Salisbury. Notwithstanding any other law to contrary, the Mountain Road/Blackwater River bridge 095/135 described in section 4, paragraph I (t), shall be reconstructed to a minimum of 10 ton loading with state bridge aid and local matching funds only.

6 Bridge Restoration. Amend 1986, 203:15-a, II as amended by 1987, 280:2 to read as follows:

II. The department of transportation shall negotiate a design-build contract to authentically restore the Cornish-Windsor covered bridge to meet an [HS 15-44] AASHTO H-10 load bearing capacity. Competitive bidding may be waived, but any bidding on this unique project shall be limited to contractors with demonstrated expertise in authentic restoration of covered bridges. The design-build contract shall be limited to restoration of the bridge, abutments and central pier only. Reconstruction of approaches, if required, and other ancillary work shall be performed by the department of transportation or contracted on a competitive bid basis at the department's discretion.

7 New Chapter; Highway and Bridge Plan Oversight. Amend RSA by inserting after chapter 17-N the following new chapter:

CHAPTER 17-O
JOINT COMMITTEE ON HIGHWAY
AND BRIDGEPLAN OVERSIGHT

17-O:1 Committee Established. There is hereby established a joint committee on highway and bridge plan oversight. The committee shall consist of the chairman of the senate capital budget committee, 4 members of the senate appointed by the president of the senate, the chairman of the house public works committee, and 4 members of the house appointed by the speaker of the house. The committee shall choose a chairman and vice chairman from among its members. Committee members shall receive mileage at the legislative rate for attending to the duties of the committee.

17-O:2 Duties. The committee shall develop information and prepare recommendations for legislative action to continually update,

on an annual basis, the state highway and bridge construction and reconstruction plan. In the performance of its duties, the committee shall make a determination of what state and federal funds can reasonably be expected to be available over the next 10 year period.

17-O:3 Department of Transportation Reports.

I. The department of transportation shall provide the committee and governor and council with progress reports and suggestions for updating the 10 year plan at such times and in such manner as the committee may require.

II. If the department of transportation cannot comply with the enacted 10 year plan, regardless of whether a recommended change constitutes a delay, acceleration, elimination, or modification of a project, the department shall submit its recommended changes to the committee and to the governor and council.

17-O:4 Determination of Priorities. The committee established pursuant to RSA 17-O:1 shall determine all questions relative to the priority of projects contained in the 10-year plan, after the receipt and consideration of the department of transportation's recommendations. The priorities determined by the committee shall be implemented by the department of transportation. Nothing in this chapter shall be construed to void, nullify, or otherwise modify the governor and council's duties and responsibilities relative to awarding highway or bridge construction contracts.

8 Effective Date.

I. Sections 1-4 and 7 shall take effect 60 days after its passage.

II. Sections 5 and 6 of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes a 10-year bridge construction, reconstruction, and rehabilitation plan based on the report submitted to the governor by the governor's advisory commission on highways.

The plan will be revised and updated as required based on an annual report from the commissioner of transportation.

This bill, as amended, deletes the bridge known as the Blackwater River and Mountain Road bridge in the town of Salisbury from the replacement category with federal funds and requires the bridge to be reconstructed with state bridge aid and local matching funds.

This bill, as amended, establishes a joint legislative committee to continually review and update on an annual basis the 10 year state highway and bridge construction and reconstruction plan. The joint committee shall determine the priority of projects to be implemented by the department of transportation. If the department of

transportation cannot comply with the plan, it shall submit its recommended changes to the committee and to the governor and council.

The bill, as amended, changes the load-bearing capacity of the Cornish-Windsor bridge.

Amendment adopted. Ordered to Third Reading.

HB 1109-A, relative to the purchase of the Cheshire bridge in the town of Charlestown and making an appropriation therefor. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: What we are doing is we are purchasing the bridge from the Boston and Maine Company for \$1.5 million to rehabilitate it and to pay for the bridge. It will be done by bonds, and the principle interest on the bonds will be paid back via one-way toll that we are instituting on this particular bridge. You will find that, in part of the amendment, that we have authorized the department of transportation to establish the toll rate and then it will be a one-way toll. It is supported by the people in that area because they realize that it is the utmost importance to get back and forth over the river. We urge your support of the committee report.

SENATOR HEATH: Senator White, what was wrong with the old arrangement on the bridge?

SENATOR WHITE: Well, the Boston and Maine no longer want to keep it up and it is unsafe for traffic.

SENATOR HEATH: Why would we want to buy an unsafe bridge? Why don't they give it to us?

SENATOR WHITE: Well, we are not spending very much on the bridge, most of the money in there is for rehabilitating it so that it will be for safe passage.

SENATOR HEATH: Is this a railroad bridge or an automobile bridge?

SENATOR WHITE: Basically, right now it is a road, but at one point it belonged to Boston and Maine.

SENATOR HEATH: Why don't you let the tolls, that you are going to charge, come up with the first million?

Amendment to HB 1109-A

Amend section 1 of the bill by replacing it with the following:

1 Appropriation. The sum of \$1,500,000 is hereby appropriated to the department of transportation for the biennium ending June 30, 1989, for the purchase and rehabilitation of the Cheshire bridge. The purchase shall be subject to the approval of governor and council. This appropriation shall be non-lapsing and in addition to any other for the department of transportation for the biennium.

Amend paragraph II as inserted by section 3 of the bill by replacing it with the following:

II. The commissioner of the department of transportation, with the approval of the governor and council, shall establish a toll rate that will be sufficient to cover the operation and maintenance expenses and payments for debt service. The commissioner shall establish a one-way toll collection system.

Amend section 4 of the bill by replacing it with the following:

4 Authority Granted. The commissioner of the department of transportation shall acquire, operate, and maintain the privately owned Cheshire bridge and adjoining land and appurtenances between the towns of Charlestown, New Hampshire and Springfield, Vermont.

5 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill, as amended, authorizes the department of transportation, subject to the approval of governor and council, to purchase and rehabilitate the Cheshire bridge.

The bill appropriates \$1,500,000 for this purpose, to be bonded. The principal and interest on the bonds would be paid from toll receipts from the bridge.

The bill, as amended, authorizes the commissioner of the department of transportation to acquire, operate, and maintain the privately owned Cheshire bridge and adjoining land and appurtenances between the towns of Charlestown, New Hampshire and Springfield, Vermont.

The commissioner shall establish one-way tolls sufficient to cover the expenses and payments for debt service in the acquisition of the Cheshire bridge.

Amendment adopted. Ordered to Third Reading.

HB 1104-FN-A, relative to sewage treatment funds and making an appropriation therefor. Inexpedient to Legislate. Senator White for the Committee.

SENATOR WHITE: This bill, basically, would involve the state probably to the tune of somewhere between 150 and 200 million dollars in the future because of the sharing that we would have as the percentage goes up. We currently now pay 20% on sewage cost. The bill as amended by Representative LaMott would have gone up to a 50% charge against the state. When I asked him how it was going to be paid for he indicated that he had always supported an income tax. So, we felt at this time we were not prepared to commit the State to a 150 million dollar project.

SENATOR MCLANE: I think this bill is a very important turning point in the State of New Hampshire and in the debate on this Senate floor. My question of you is, as an advocate of the Reagan Administration, do you feel that in returning responsibilities, such as those for clean water, to the states that the State of New Hampshire is announcing that it is unable and unwilling to pick up its share of the bargain?

SENATOR WHITE: I think if you listen to the Reagan agenda, he says put it back to the closest people responsible for it. Last year what we instituted was a revolving fund. To date we still have not even enacted the revolving fund. We went in for all of those communities that were under the gun from EPA to do it, the so called "Dirty Dozen," and we funded that. Now, we feel that, at this time, we have to look at the resources of the State and find out what is needed. We did increase the state's share to 20% in that revolving fund, and we just feel that, in an off-year, to come in with a 150 million dollar project is not what we are here to do.

SENATOR MCLANE: I guess my last question of you, Senator White, would be you say that you are passing the burden on to the next level of Government; do you think it is symbolic for the cities and towns that what you are returning to them is sewage?

SENATOR WHITE: Apparently.

SENATOR BLAISDELL: Senator White, I realize more than ever the predicament that Senator Torr and his committee were in when you passed out this bill, and also the one that you left to me, by the

way, when you redistricted me out of my area in Walpole and sent me to Swanzey. One of the areas that is involved in this bill is the town of Swanzey. Can I ask you, Senator White, this bill came out of the House and out of House Appropriations, am I right?

SENATOR WHITE: Yes.

SENATOR BLAISDELL: Was there any attempt in the Capital Budget Committee to take this bill and put a dollar in it and send it back to the House of Representatives and let them have a part of this? I speak especially to my area of Swanzey. It comes out of the House with a passage bill and leaves it to me to do the dirty work, saying that we don't have the funds. I object to that, Senator White. Was there any talk about putting a dollar back in it and sending this bill and the next bill back to them over there on the other side of the wall and let them sit down and talk to us?

SENATOR WHITE: No, there wasn't and the reason for that was, earlier during the hearing, Representative LaMott came in and instead of decreasing what they wanted, they increased what they wanted. That, I think, was what kind of made us nervous about even sending even a dollar back to the House, because they don't ever decrease, they always increase the amount of funding that they want.

SENATOR TORR: Senator White, isn't it true during the discussion of Capital Budget, that the mention of the revolving loan fund, which we put in place in the 1987 legislative session, was asked to give that an opportunity to work?

SENATOR WHITE: That was the premise that we moved this to inexpedient was because we haven't even given that a chance to go. Yes Senator Torr, you are absolutely right.

SENATOR TORR: Isn't it also true that that starts to come into action on October 1, 1988 and the State has already funded that portion and all we are waiting for is for that date to occur and the Federal part of the participation money to be involved?

SENATOR WHITE: That is right and that is exactly why we have unfortunately had to kill these two bills.

SENATOR ST. JEAN: I rise in support of this legislation, and I do so because it is a much needed piece of legislation. For years now, Manchester has been dumping raw sewage into the Merrimack

River and, each year we bring in this legislation and each year it gets killed for a variety of reasons, and I don't fault Senator Torr's committee. He has done a good and thorough job. But I do look at the Federal Government, the Federal Government who has told us that the best use of Government is back at the State level. Well, I tell you, this is a good example of what happens under this administration, that they move things back and then we get back here and throw our hands up in the air, and say we don't have the dollars to be able to fund these projects. Well, I think the Federal Government does have a role in this and the role is to give us some money so we can clean up the Merrimack River because the Merrimack River just doesn't affect Manchester; it is our life's blood in New Hampshire. It isn't going to be too long that people in Senator Charbonneau's district, in Londonderry and those border communities that are going to be drinking water from the Merrimack River. And, to this day as I speak, raw sewage is going into that River daily. As you can see down in Nashua they have begun the clean up project and our friends to the South have already cleaned up their share of the River. The last big bottleneck is Manchester. I wish we did have the money and I wish there was a way that we could fund this project, because I think it is a much needed project for the city of Manchester and the State of New Hampshire. It is a beautiful River and clearly with the raw sewage going in there, on a daily basis, it's going to take a while and it is going to take a lot of money to clean that River and that is what I ask for today.

SENATOR DUPONT: Senator St. Jean, in Rochester, when we had problems similar to what Manchester has, we had a moratorium on new hookups, so anything other than single family homes, into the sewer system. Is Manchester making any efforts on their own to prevent the pollution of the Merrimack River?

SENATOR ST. JEAN: We are, Senator, but Manchester is the State's largest city and we are a growing city. I don't think, at this point, the city of Manchester could put a moratorium on, at this point.

SENATOR WHITE: Senator St. Jean, I realize that you can't put a moratorium on buildings, because it is very difficult at this time, but has the city of Manchester put any impact fees or anything else on the developers as they kept building and dumping more and more sewerage into the Rivers? That is what we did in our town was to put impact fees on people that are adding to the pollution.

SENATOR ST. JEAN: We have, Senator, in my committee Internal Affairs dealt with impact fees. I consider that to be a tax, and you and I are both against taxes, because that is what impact fees are. If we start doing that in this state all of sudden we have got one large tax and people are not going to come and build any more. I want this state to grow and one of the ways we do that is develop, as we are in the city of Manchester.

SENATOR HOUNSELL: I rise in support of the motion, knowing that there is a need, but also knowing that there isn't any money.

SENATOR STEPHEN: I rise in favor of this bill, simply, that we had this bill a few years ago and it is so essential to Manchester, that we were promised that we would get the funding. This is actually to expand the treatment facility so the raw sewage would not go into the Merrimack River, where it is going now. People are paying for it, especially on the west side of Manchester, and this would help them. This is so important.

SENATOR PODLES: I oppose the committee report. I would like to see something done for Manchester. The sewage treatment facility of Manchester is actually in a crisis right now, because of all the sewage that is being dumped into the river. For your information, I would like to tell you that Manchester has the highest property tax in the state and I think that people are carrying the load; we are asking for help and I would hope that if the money is not there, that we should have at least first priority for the funding under the state revolving loan fund program established by the state.

SENATOR BLAISDELL: I realize, as I say, Senator Torr and his committee had a terrible time, but North Swanzey is in this. It's a small community; we spend millions of dollars in the town of Swanzey to take care of a problem. We have cleaned up forty miles of the Ashuelot River and just one area of North Swanzey was not included; it fell through the cracks. I sat in this Senate the last couple of years, I listened to what happened in Newport. We appropriated a million dollars in Newport to take care of theirs, and now we come back. I realize that there is not maybe 30, 40 or 50 million dollars, but this is a \$1.8 million. I ask you to at least put a dollar in the bill, get it back over to the House and let them come back in take some of the responsibility. My area is really upset with me, really upset, because I didn't more or less come through, being what they call the powerful chairman of the Senate Finance Committee. Well, I'm not very powerful and it is obvious, but I can tell you this that I don't

like being held as the scape goat on this. I was redistricted into this district a couple years back and I inherited this problem. I'm just sorry that something wasn't done before, so as I say again, I ask you to reconsider it, put a dollar in the bill and send it back over to the House.

SENATOR HOUNSELL: Senator Blaisdell, would you believe I see this differently from you, I see it as responsible to the whole state and, although I would like to be able to help Monroe, it appears to me that there is no money to do it this session.

SENATOR BLAISDELL: Senator, it is obvious that you and I disagree because if I was from Monroe and I represented Monroe I would be going into the wall to see that they got it done.

SENATOR HOUNSELL: Would you believe, sir, that I think that is somewhat irresponsible?

SENATOR BLAISDELL: No, I don't believe that.

SENATOR WHITE: Senator Podles, last year we did pass the so called "Dirty Dozen" bill, was Manchester included in that?

SENATOR PODLES: Yes, Manchester was included in that.

SENATOR WHITE: Were we more than generous with what we gave to Manchester at that time?

SENATOR PODLES: I'm not sure that you were generous, I think that you paid what had to be done for Manchester, at that time. We do have problems now and I think we need help.

Adopted.

Senators Blaisdell, McLane, Stephen, Podles, St. Jean and Disnard wished to be recorded as opposed.

HB 1121-FN-A, appropriating funds for construction of the North Swanzey sewer interceptor. Inexpedient to Legislate. Senator White for the Committee.

SENATOR WHITE: This bill deals only with the North Swanzey interceptor. The last bill was bad enough at 50-50, but this one calls for 95% state funding and 5% local funding. For the record, I was not in the Senate when Swanzey was given to Senator Blaisdell, so I never had it in my district, I only go up as far as Marlborough. I am

sorry that you have it, but regardless, again it sets the wrong precedent; we have the revolving fund out there and I think in October, as Senator Torr has pointed out, we will see it in action. I urge your support of inexpedient to legislate.

Senator Blaisdell moved to substitute Ought to Pass for the Committee Report.

SENATOR BLAISDELL: As I said before, I've sat in this Senate and listened to the problems in Newport. This is one area that fell through the cracks, North Swanzey, every other part of Swanzey has that sewer project done. They have problems with their septic systems, they are polluting, I am asking you to please change the report of inexpedient to ought to pass, if not send it down to Finance and please let me take a look at it down there.

Motion lost.

Question: Inexpedient to Legislate.

Adopted.

HB 765-FN-A, relative to the printing of "New Hampshire Historical Markers", and making an appropriation therefor. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR: HB 765-FN-A appropriates \$14,000 from the general fund for the printing of a new edition of the "New Hampshire Historical Markers", the last edition is outdated and depleted. The amendment only changes the wording in our previous legislation and the new wording would be "cause to be established" rather than, "purchase and install", a Governor Sherman Adams Memorial. This money for the amendment has already been appropriated. This is a general fund appropriation.

Amendment to HB 765-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the printing of "New Hampshire Historical Markers",
and making an appropriation therefor, and relative
to a memorial for Governor Sherman Adams.

Amend the bill by replacing section 3 with the following:

3 Memorial Restrictions Removed. Amend 1987, 355:1 to read as follows:

355:1 Supplemental Appropriation; Memorial. In addition to any other sums appropriated or donated to the department of administrative services, the sum of \$5,000 is hereby appropriated for the fiscal year ending June 30, 1988, to provide funds with which the commissioner of administrative services shall [purchase and install in Mount Washington State Park] cause to be established a suitable memorial in memory of Governor Sherman Adams. The Mount Washington commission shall determine what the memorial shall be, and where such memorial shall be [installed] established. The commissioner of administrative services is authorized to accept, from any source, donations to be used for such memorial. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

4 Effective Date. This act shall take effect July 1, 1988.

AMENDED ANALYSIS

This bill, requested by the division of historical resources, makes an appropriation of \$14,000 for the printing of a new edition of "New Hampshire Historical Markers" to the division of historical resources, department of libraries, arts and historical resources.

The bill, as amended, would make more general the language of the law to establish a memorial for Governor Sherman Adams.

Amendment adopted. Referred to Finance (Rule #24)

HB 894, relative to consideration of water companies as public utilities. Ought to Pass. Senator Torr for the Committee.

SENATOR TORR: HB 894 gives the community the ability to service up to 25 residents in a neighboring community, without having to go to the public utilities commission for permission. It also makes them give the same break for the cost of the water quality, quantity and service. We recommend passage.

Adopted. Ordered to Third Reading.

HB 816, prohibiting the hunting of mourning doves in New Hampshire. Ought to Pass. Senator Hounsell for the Committee.

SENATOR HOUNSELL: You have seen this issue many times this session and I hope this is the last time we see it. The committee report on this bill that is before you is ought to pass. It is my hope that you will pass it, at this time.

SENATOR HEATH: During this entire session I have learned, with increasing accuracy, how to count and I know what the numbers are

out there and, I don't expect any of you people to listen to what I think are better reasons, but I want it on the record that what you are doing today has nothing to do with whether or not they hunt doves in New Hampshire. This bill doesn't have anything to do with that, they don't hunt doves, never have in New Hampshire. It was a process, a process of hearing, process of input for the department and each time, with the leadership of the Manchester Union Leader, they have turned down the dove season. It was a process that was working, it was a process that the general public could get involved. This violates this legislation and the previous feat, violates that process where the public can come in and testify pro and con, even though your aim to not have a dove season was being satisfied to go beyond that and you take the process out with this legislation.

Secondly, on the average, in each one of your districts are 9 to 10 thousand registered hunters. There are 200,000 in the state. There is also, in most of your districts, a great deal of tourism that depends on hunting and the sportsmen who brings a huge amount of revenue to this state, out-of-state sportsmen, we are talking resident ones that I am saying 9 to 10 thousand in each of your districts. No matter what you hear about the posting of land, the threats to post land, the ones that I have heard of that were investigated are people who either have a piece of postage size land, and who cares, they don't allow hunters on them and there is nothing to hunt on them or the people that have already posted and threaten each time. They threaten when you put in a Moose season; they threaten when you have a change in the deer season; they threaten on any kind of thing to post land. If you think that you are helping the hunter, I am here to tell you as a director of a hunting and fishing group, as a former director of GO New Hampshire, which is a gun owners of New Hampshire, I don't hear any sportsmen coming to me and saying don't vote against this because you are going to close land, because they know about the closing of land that is taking place and it has nothing to do with whether we hunt doves. There are not doves on most lands here except agricultural land and where the doves exist on agriculture land, they are usually a nuisance because they feed on seed which, in many cases, is the clover seed, or the alpha seed, or the hay seed that has been put into the fields as a crop. There are a very few farmers that won't, in the fall, encourage you to hunt what is virtually vermin to some agricultural industries. So, you are not doing the sportsmen a favor, in fact, you are spitting in his eye in two ways. One; you are denying him something if he wants to hunt doves,

two; you are denying him the process of the hearing that we have always done and has always worked in favor of those people that don't want to do it.

Finally, you're pandering. You're pandering to the Newspaper and the politicians who will use words as colorful as slaughtered and so on that harms the sportsmen unintentionally, I'm certain, and I have a great deal of respect for my friend Bobby Stephen, but it harms the sportsman when you use words like slaughter and you use words like doves of peace and so on, to color this issue. It is simply a choice, if you don't want to hunt the dove, you have always won through the hearing process. Now you are saying that is not enough even though it has always worked, we are going to do it one more time. While I don't think you are going to change your minds, I hope that in the future, before you get involved, before you get out on a limb, because I don't believe you are anti-hunters for the most part, that you won't do this to the sportsmen, to the industry and the recreation that they represent. Thank you.

SENATOR STEPHEN: I agree with Senator Heath, that this is a very important issue and people have spoken throughout this state. What I would like to do is protect the great majority of the people and the sportsmen, especially, who are afraid that people will post their lands and not allow hunting. I have many letters that I received from the fish and game and it was 4 to 1 against the hunting. I don't want to bore you people here with any of the letters, but I've just got one letter that I have from this gentleman that wishes for me to read this. I'll just read part of it.

"The reason you give is that the hunters request it" and, he says, "how about the rest of us that want to feed these beautiful birds and you want to slaughter them, some sport". He says, "I am going to mount the campaigns such as you have never seen before, urging people throughout the State of New Hampshire to post their land and, not allow any hunting if there is a mourning dove season." I have no pride of authorship and I understand that the House has defeated the Senate version. I am only interested in this very important issue and I hope that this Senate would pass the House version and send it on to the House and save the sportsmen of the State of New Hampshire. That is all I have to say.

SENATOR TORR: Senator Heath, aside from the issue of a hunting season for mourning dove, I would like to have you address part two of this, relative to the fact of the State of New Hampshire taking the

mourning dove out of the classification of a migratory bird. Is this not in conflict with the Federal classification?

SENATOR HEATH: If it runs against it, and of course of the federal classification will take its stand as the migratory game bird and it will be so listed. It is listed that way so that we can have treaties with other countries in terms of controlling the resource. A lot of these animals are born in Canada and fly through the United States and some nest in the United States and some nest in Mexico. They go down sometimes through Central America to South America. It is listed that way so that it can be controlled, if every State were to do this, then it is very likely that the Federal Government would take no interest, it would strike it from the migratory treaty and that you would very shortly see, as you have in some species, a heavy take in Central and South America where conservation efforts have not prevailed over the years, and you might see a great change as we have with the crow, which is heavily shot in Mexico believe it or not, and was added to the list in order for us to have some sort of word and say in it. We didn't use to have crow seasons and we've had crow seasons in order to help protect the crow because of the heavy take in Central and Latin American countries.

SENATOR HEATH: Senator Stephen, if I am legitimately engaged in the taking of a point tail deer, am I slaughtering the deer?

SENATOR STEPHEN: I wouldn't say you are slaughtering them, you are shooting the deer.

SENATOR HEATH: If a butcher takes a spring lamb in the fall, and I'm very serious, and leads him into the killing floor and stuns him, is he slaughtering that animal?

SENATOR STEPHEN: Senator Heath, the issue is mourning doves and not lamb.

SENATOR HEATH: Would you believe, Senator Stephen, I am trying to determine the nature of the word slaughter and what is defined in and out, because I believe that when we are talking about legitimate activities, such as, the killing of lambs for food, the killing of deer for food, and legitimate seasons and the potential taking or non-taking of any game species, that the word slaughter has a colorful aspect that I don't seem to understand the emphasis with which you use. So, if my other questions made you feel I have been leading you astray, would you define for me what is defined in and what is defined out of that word "slaughter"?

SENATOR STEPHEN: Senator Heath, I can define it in this way, that I promised you that I wouldn't use that term slaughter, but after reading these letters I am using what the people have mentioned as slaughter. If you want to ask them, I would give you their address and you can call them or write them.

SENATOR HEATH: Senator, do you recall when I came over and showed you this list of 1,192 names, 243 of whom were in the city of Manchester; who signed the following petition that said, "we, the undersigned sportsmen do respectfully petition the State of New Hampshire Fish and Game Department to select hunting season dates for the hunting of mourning doves in the State of New Hampshire," do you recall that?

SENATOR STEPHEN: I do.

SENATOR WHITE: I rise in opposition to the pending motion, basically because of what Senator Torr has brought forward to you in regards to the migratory game list. Anyone who thinks that this is not a migratory bird I think is just closing their eyes and hiding in a closet. When I asked about the bill earlier in the session, I said there are millions of these birds and millions are hunted in the south every year and still we are not in danger of losing them. The answer at that point was, well look at what happened to the passenger pigeon. So, I decided to do a little research on the passenger pigeon. The passenger pigeons did not die because of the sportsmen. The passenger pigeon, back in 1878 and prior, were not just hunted by the sportsmen, they were market hunters. In 1878, fifty teams of men and horses arrived in Penishoe, Michigan. They set up nets forty miles long and three to ten miles wide and they hunted the pigeons in their roosts. They were paid four dollars a wagon load. Between March 22 and August 22 they took 1,600,000 pigeons to New York and they didn't just shoot them; they took them out of the net, they tore their heads off and put them into the wagons and then shipped them down to New York. That is slaughter. Later as we progressed and grew in this country, back through the 1800's, the pigeons who nested in hardwoods, oak and walnut down in the south, as the trees were cut down, they lost their breeding places, and so, another source for the pigeons was lost. But, to finish them off, back in the late 1800's, there was a severe freeze in New York in late April; the ground was completely littered with dead pigeons and that was the demise of the pigeons. I don't foresee, at this point, that we will have that problem because we don't want to market hunt. We sport hunt mourning doves. I do not advocate a mourning dove season in New

Hampshire; I feed mourning doves in New Hampshire. I think it is the wrong message to the sportsman of New Hampshire to change the law and close our eyes and our mind and say they are not a migratory bird. Do we put up signs at the border of New Hampshire and say no mourning doves allowed, they are not migratory birds? I think it is folly that we have this bill before us today.

SENATOR STEPHEN: Senator White, just briefly from what I heard, and I wasn't sure if you are against shooting them or for shooting them, but now I understand that you are against having the mourning dove season, so if you are, why not be against having this bill passed?

SENATOR WHITE: At some point, Senator Stephen, there might come a time when there is one area that is infested with sick mourning doves, similar to the sick moose that Senator McLane ran into, and you might have to take care of that small problem so that you don't want other birds and other people infected by a sick mourning dove. I just think there might come a chance that you might want to have to kill some birds and you would not be able to under this present legislation. I do not, never have, supported killing mourning doves, I don't like listening to them all the time, but I feed them. This is the wrong message, this is the wrong way to do it.

SENATOR BOND: I rise in opposition to the present motion. I live in what is probably the most huntable part of the state, if not the most hunted. I personally oppose shooting mourning doves. I really detest the sound every morning at 6:00 a.m. that wakes me up, but I don't think that they necessarily need to be shot or slaughtered. However, we have a process, the process should be respected. The fish and game department is the people that we designate as being the operators of that process, and I would urge you to vote no on the motion of ought to pass.

SENATOR STEPHEN: Senator Bond, I agree that the fish and game people should be in charge of this, but people have spoken out to the fish and game not to shoot these pretty mourning doves and as the result of the poll that was taken it was 4 to 1 against shooting mourning doves; so why shouldn't you be for this bill?

SENATOR BOND: Senator Stephen, the process is there for fish and game to deal with the question of whether or not there should be a season. The legislature should be getting itself out of the process of game management and be leaving it to the people that we employ to manage game.

SENATOR STEPHEN: I agree with you Senator Bond, but don't you think the issue really isn't the mourning dove and it is the power of the fish and game?

SENATOR BOND: No.

SENATOR MCLANE: As an authority on Moose, I would like to turn my thoughts to mourning doves. I think what you are seeing here is a bill that addresses a real failure in the process. It is a time that people, and I agree with Senator Stephen that the majority of people do not want a mourning dove hunt. They do not want a mourning dove hunt because they think they are pretty birds, they see them at their feeder, they are aware of perhaps the danger to electric power lines if they are shot and, they don't like the thought of a bird that is seen so often around their homes having a open season. So, the people have spoken that they don't want a hunt, so what happens, you have another hearing with fish and game. I think what this bill speaks to, is the fact that the fish and game commission has not recognized that people in New Hampshire do not want a mourning dove hunt. In fact, as late as the hearing on this bill before our Dev. Rec. Committee, the new commissioner of fish and game, in feeling in opposition because they were losing a bit of the process, said that people need to be educated so that therefor people would want a mourning dove hunt. They won't give up, these guys, and because the fish and game commission won't give up and, because they keep threatening people with a mourning dove hunt, this is the legislative answer. I appear in great support because I don't want, again, to have all of my little old ladies in the Concord Bird and Wildflower Club, have to turn out at a public hearing with 400 hunters in the evening to say, we don't want a mourning dove hunt in New Hampshire.

SENATOR HEATH: Senator McLane, with all due respect, how can you possibly say that the process hasn't worked, when each time it hasn't worked in favor of the position that you take and, you clearly cited that you are not interested in solving the allowing of the hearing, but you don't want mourning doves hunted? And yet, that is all that has happened and yet you have, and we all have when we believe in something, gone through the process repeatedly to see if we can get it to work our way, whether it is a bill on an income tax or mourning doves or whatever. We fought year after year in an open quorum the same as an open hearing. What this bill does, resulting in dove hunting and bans the hearing process, and dove hunting doesn't exist, so how can you say the process along with that hasn't worked?

SENATOR MCLANE: I'm saying that is so far the clear majority that people in this state do not want an open season on mourning doves. Those people are tired of going through this process again and again and, they would go through with it again and again, because there are always going to be hunters standing here watching loyally, that are going to say, all we've got to do is have another hearing on the issue. The issue is never going to go away unless we pass this bill.

SENATOR HEATH: Senator, are you aware that the fish and game department does not initiate the hearing; that it is petitioned and that you are obliged to call it when it is petitioned by a certain number of people, as far as the democratic process that they use on it?

SENATOR MCLANE: I am well aware of it and I can imagine the next petition being prepared at this very moment. If you will look at that petition, in answer to your question, you may find my name on it and the reason is that I went down to Mickey Finn's just before Christmas to buy something and they said do you want to sign the mourning dove petition. I almost put my name on it and I finally read the small print at the top that says, off. That's not the mourning dove petition to me, that is the anti-mourning dove petition. It took a while and I bet there are a lot of people on that petition are feeling that way. Petitions are easy to get, you got the person right there that is preparing the petition and we are tired of it, and we want the thing ended.

SENATOR HEATH: Do you cast this petition in shades of doubt and do you also cast the same aspersions of those petitions?

SENATOR MCLANE: I believe that those are letters, most of them. I have read several of them and I believe that a thoughtful letter from someone who cares, I know there are people who care strongly on both sides of this issue and, I think we are saying, the end. I think those petitions are perhaps more clearly marked at the top.

SENATOR ST. JEAN: I rise for a comment. I hate to burst anyone's bubble, but I don't care about mourning doves and, I have heard enough of this this afternoon. In this Senate, I think we have got more important things to be doing rather than dilly-dallying with created issues dealing with mourning doves. For the life of me, I kept shaking my head while this discussion was going on. Clearly, some people consider it to be important, but I don't. We have got to

deal with AIDS legislation; we've got affordable housing legislation before us and God only knows we are going to be here for another year because we are going to be in annual sessions. So, I think we'd better get to the matters at hand. As far as mourning doves go, I consider them flying rats.

SENATOR NELSON: Senator Bond, would you tell me how many mourning dove hunting seasons we have in the State of New Hampshire?

SENATOR BOND: Senator Nelson, none to my knowledge.

Roll Call requested by Senator Stephen.
Seconded by Senator Blaisdell.

The following Senators voted yes: Hounsell, Freese, Hough, Dupont, Chandler, Disnard, Roberge, Blaisdell, McLane, Podles, Johnson, Stephen, St. Jean, Delahunty, Preston and Krasker..

The following voted no: Bond, Heath, White, Pressly, Nelson, Charbonneau and Torr.

16 Yeas

7 Nays.

Adopted. Ordered to Third Reading.

HB 739, relative to appeals from the denial of building permits in municipalities without zoning ordinances. Ought to Pass. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: HB 739, as amended, allows towns without zoning ordinances to form a board of appeals, which shall be appointed by the board of selectmen. The bill affects towns that have planning boards but do not have zoning ordinances. It is meant to correct an oversight that was made in 1983 when the planning and zoning statutes were recodified. This bill is supported by the New Hampshire Municipal Association, which is in full support of the legislation.

Adopted. Ordered to Third Reading.

Recess.

Out of Recess.

Senator Johnson in Chair.

HB 1161, relative to health insurance for members of the general court. Ought to Pass. Senator Bond for the Committee.

SENATOR BOND: The members of the general court may participate in a group health insurance program managed by Blue Cross/Blue Shield. This bill would really allow those members who are no longer in office to elect, within thirty days after they leave the general court, to stay in the group at their own expense. The major reason this bill is necessary is that no one can obtain major medical insurance from Blue Cross/Blue Shield if they are not a member of the group. With this bill, people over 65, in or out of the legislature, will now have the opportunity of obtaining major medical. This will cost the State nothing; it is at the expense of the individual legislator.

Adopted. Ordered to Third Reading.

HB 878-FN, establishing a committee to study the benefits of policemen and firemen. Inexpedient to Legislate. Senator Bond for the Committee.

SENATOR BOND: HB 878 established a study committee to determine health care benefits and, the sponsors, at our hearing, indicated that it was unnecessary and withdrew their request.

Adopted.

HB 1185-FN-A, establishing a program of worker safety and health education within the department of labor. Inexpedient to Legislate. Senator Charbonneau for the Committee.

SENATOR CHARBONNEAU: It came out in the testimony that in Connecticut, which does have this program, there has been no measurable cost reductions in workmens compensation claims. Also, many people pointed out that this would be a duplicate effort with the OSHA regulation already in effect. I urge you to support the committee report of inexpedient to legislate.

Adopted.

HB 1199-FN, relative to unemployment compensation. Ought to Pass with Amendment. Senator Bond for the Committee.

SENATOR BOND: HB 1199 conforms state law to the federal law, which allows an individual to receive training allowances while receiving unemployment compensation benefits. The amendment, which you will find on page 11, repeals the section relative to courses offered under the job training partnership at the request of the commissioner in DES and it changes the effective date to 60 days after passage.

AMENDMENT TO HB 1199-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to unemployment compensation and relative
to the division of standard and certification,
department of education.

Amend the bill by replacing section 3 with the following:

3 Repeal. RSA 21-N:7, IV, relative to the approval of courses offered under the Federal Job Training Partnership Act.

4 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill conforms state law to the federal law which allows an individual to receive training allowances while receiving unemployment compensation benefits.

This bill, as amended, repeals the function of the division of standard and certification, department of education to approve courses offered under the Federal Job Training Partnership Act.

Amendment adopted. Ordered to Third Reading.

Recess.

Out of Recess.

Senator Bartlett in Chair:

HB 963-FN, relative to certain public utility contracts. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: The amendment to this bill is on page 7 and, basically it is the entire bill. It deals with small power plants and what happens to their rates in case of a bankruptcy. We had, obviously, a group in from the small power plants, we had people in from the utilities and we had the PUC in, all arguing their own points of view. We sent them out and they finally had come in with an agreed amendment, they all agreed that that is what they want and so that is what they have got and, that is what you will find on page 7 of today's calendar. It deals with the commission orders and everything else that the small power plants have received in the past and what will happen in the future.

AMENDMENT TO HB 963-FN

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Public Utility Payment Obligations. Amend RSA 362-A by inserting after section 7 the following new section:

362-A:8 Payment Obligations; Public Utilities.

I. The purpose of this section is to codify existing law on regulatory obligations of public utilities for the purchase, pursuant to applicable federal and state law and commission orders, of energy or energy and capacity from qualifying small power producers and qualifying cogenerators.

II. Energy or energy and capacity provided by qualifying small power producers and qualifying cogenerators under commission orders or negotiated power purchase contracts are part of the energy mix relied on by the commission to serve the present and future energy needs of the state. The rates establishes in orders by the commission for the purchase of energy or energy and capacity from qualifying small power producers and qualifying cogenerators under this chapter or under applicable federal law exist under the legislative and regulatory authority of the state and shall be deemed a state approved legally enforceable obligation.

III. The invalidity of any part of this section shall not destroy the section as a whole if its general purpose can be accomplished, notwithstanding and such invalidity.

2 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

The bill, as amended, declares energy and capacity purchased from small power producers and cogenerators to be part of the state's energy mix, and that rates established in orders of the public utilities commission for the purchase of such power are to be deemed state approved legally enforceable obligations.

Amendment adopted. Ordered to Third Reading.

HB 871, relative to damages for wrongful death. Inexpedient to Legislate. Senator White for the Committee.

SENATOR WHITE: One part of this bill increased the death benefit, for wrongful death, from \$50,000 to \$150,000 for decedents that had no dependent family members and we felt that this entire bill

was against Tort Reform that we have worked so hard to get, so we felt that we should not pass it at this time. We urge inexpedient to legislate.

Adopted.

HB 998-FN, relative to liability to manufacturers. Ought to Pass with Amendment. Senator Podles for the Committee.

SENATOR PODLES: HB 998, as amended, is a consumer protection bill. It holds the manufacturer liable for the cost of labor and parts used by its representative to provide service or repairs under the direct terms of the manufactured expressed warranty on any item sold in the state with a retail value greater than \$100. They must also provide an address or toll free number for information on warranty service. The bill requires the manufacturer to make parts available by the service man within thirty days after receiving the order. Noncompliance will result in a civil penalty of \$25 per day and for replacement of the item repaired. The committee recommends ought to pass with amendment.

AMENDMENT TO HB 998-FN

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Commercial Code; Servicing of Warranties; Liability of Manufacturers. Amend RSA 382-A by inserting after section 2-328 the following new section:

382-A:2-329 Servicing of Warranties; Liability of Manufacturers.

I. Every manufacturer who makes an express warranty pursuant to a sale of a consumer good with a retail value greater than \$100 shall provide purchasers with an address or toll-free number for information on warranty service or shall designate one or more representatives within this state to provide services or repairs under the direct terms of the express warranty. The manufacturer shall make parts available to any authorized New Hampshire service representative within 30 days of receipt of an order by the manufacturer in order to fulfill the terms of the express warranty; provided, however, that a delay caused by conditions beyond the direct control of the manufacturer including, but not limited to, special recall requirements, labor disputes, acts of God, or transportation delays caused by persons unrelated to the manufacturer shall serve to extend this 30 day requirement. Where such delays arise, such parts shall be tendered to the service representative as soon as possible following

the termination of the condition causing the delay. The 30-day requirement shall not be extended due to backlogs in processing orders, inadequate inventory, or other delays directly due to the manufacturer or its related entities.

II. Every manufacturer who makes an express warranty pursuant to a consumer sale and designates a representative within this state to provide warranty service shall be liable to such service representative in the amount equal to that which is normally and reasonably charged by the representative for like service and repairs rendered to retail consumers who are not entitled to warranty protection. This equality of normal and reasonable charges shall apply both to labor and parts. It shall be a rebuttable presumption affecting the burden of producing evidence that the normal and reasonable cost of service or repair is an amount equal to that which is charged by said service representative for like services or repairs rendered to service or repair customers who are not entitled to warranty protection. The manufacturer may not waive such liability.

III. Any manufacturer that sells a consumer good costing more than \$100 in this state shall have adequate service information and replacement parts available for direct factory service, for regional service or to their designated service representatives to repair and restore its product to operating condition as provided in the express warranty. Service information and parts availability shall continue for that period in which the manufacturer must meet its obligation under the terms of the express warranty.

IV. Any person, firm or corporation failing to comply with any provision of this section shall be liable, in an action in equity, for injunctive relief, for a civil penalty of \$25 per day for each day of non-compliance and shall be liable to the consumer for replacement of the item to be repaired. Prosecution under the provisions of this section shall be brought by the consumer protection and antitrust bureau, department of justice, if it determines that there has been a violation of this section. The requirements, remedies, and provisions of this section shall be in addition to the requirements, remedies, and provisions of any other laws which are applicable to the manufacture, sale, or servicing of consumer goods.

2 Effective Date. This act shall take effect January 1, 1989.

AMENDED ANALYSIS

This bill inserts a new section in New Hampshire's commercial code. This new section holds a manufacturer liable for the cost of labor and parts used by such manufacturer's service representative in this state who provides service or repairs under the direct terms

of the manufacturer's express warranty. This bill requires the manufacturer to make parts available to his designated representative within 30 days of receipt of an order from said representative, except under unusual circumstances. Manufacturers are also required to make service information and parts available within New Hampshire for the period in which the manufacturer must meet its obligation under the terms of the express warranty.

Any person who fails to comply with the provisions of this bill is liable for injunctive relief, for a civil penalty of \$25 per day of non-compliance, and liable to the consumer for replacement of the item to be repaired.

Amendment adopted. Ordered to Third Reading.

Recess.

Out of Recess.

Senator Dupont in Chair.

HB 746, relative to legalizing the Winchester town meeting. Ought to Pass with Amendment. Senator Heath for the Committee.

SENATOR HEATH: This is another of the bills to legalize town meetings where mistakes have been made in the process. We are working and held one bill back to try and work out a process so that we won't do this kind of a ridiculous thing of setting rules and then allowing the towns to violate them and given a penalty and then coming to the legislature as often, I don't know that we can ever cure it, but we are working on that. In the meantime these bills that you will hear today, this one and the next one are some rather minor infractions of the rules that we are correcting and legalizing the actions of that meeting which were done incorrectly.

AMENDMENT TO HB 746

Amend the bill by replacing section 1 with the following:

1 Town of Winchester. The following acts, votes, and proceedings at the Winchester town meeting held on May 16, 1987, relating to certain warrant articles are hereby legalized, ratified, and confirmed:

I. Adoption of article 14, as amended, appropriating the sum of \$92,975, to be used for the operation of the water department for the fiscal year ending June 30, 1988; and

II. The adoption of an article appropriating \$31,000 to the E.L.M. Memorial Community Center for the purpose of providing recreational services to the town of Winchester.

AMENDED ANALYSIS

The amended bill legalizes certain proceedings of the Winchester town meeting held on May 16, 1987.

Amendment adopted. Ordered to Third Reading.

HB 773-FN-A, relative to a legal holiday on June 21, 1988, celebrating New Hampshire's role in ratifying the United States Constitution and suspending the celebration of Fast Day for 1988. Ought to Pass. Senator Pressly for the Committee.

SENATOR PRESSLY: As you all know, this June 21st commemorates the 200th anniversary of New Hampshire's role in ratifying the constitution. New Hampshire was the 9th and the deciding state to ratify the constitution. We have a bicentennial commission that has worked extremely hard in making preparations for this day to be special and for the whole state to acknowledge this important part of our history. One of the problems facing the legislature this session is that, in order to acknowledge appropriately this day, we've had a request that this be declared a state holiday. Unfortunately for this bill, it seems to come right after the discussion of the financial difficulties and our committee wants to find a way to acknowledge this day in the most appropriate way that we can afford.

SENATOR CHANDLER: Looking over the fiscal note at the end of the bill, and it says the bill appropriates from the general fund, in addition to any other appropriation, to the commission on the status of women \$2,000 for the fiscal year and so forth and so on. What does the status of women have to do with the celebration of the constitution?

SENATOR PRESSLY: That is exactly what we saw and we instantly realized that there had been a mistake and we took it off and threw it away. It is clearly an error placed on the bill and I think that most people can acknowledge it. Someone put it onto the bill erroneously.

The funding is a difficult problem. There are two factors, there are two different elements. Declaring it a state holiday carries with it an unknown amount of cost and to whom it is unknown. The House version suggests that it be replaced with Fast Day, just for this one year. In doing that, it also gets more complicated in how the state employees would be dealt. It is going to be quite a challenge to the Finance committee to find the way, but we felt that committee is the

one that deals with the entire budget and we felt that they were the committee with the most experience and the knowledge to find a reasonable way to make this day special for all of us.

Adopted. Referred to Finance (Rule #24).

HB 929, to require health clubs to have one staff member trained in cardiopulmonary resuscitation techniques on duty during all operating hours. Inexpedient to Legislate. Senator Heath for the Committee.

SENATOR HEATH: As a courtesy to a Senator, we took this back in the committee and reconsidered it, but we did feel that it had far-reaching consequences. It was a nice idea. There are a lot of nice ideas out there, from mandating Heimlich maneuvers in restaurants to cardiopulmonary training in all sorts of occupations, lifeguard at the beach and so on. We felt that it really should be inexpedient at this time and may be part of a larger study at sometime in the future.

Adopted.

HB 978, legalizing certain town meetings and zoning board of adjustment proceedings. Ought to Pass with Amendment. Senator Pressly for the Committee.

SENATOR PRESSLY: The public affairs committee, this session, has received numerous, numerous requests to legalize certain portions of town meetings, zoning meetings, etc. We, as a committee, have adopted a general policy governing this that we would like to share with you. We think it is reasonable and appropriate and the amendment addresses that. We felt that it was inappropriate for the legislature to, just in a blanket gesture, legalize the entire town meeting. The amendment addresses the specific aspect of the town meeting that was found to be in error, an acknowledged human error that would not have an adverse affect. The amendment addresses narrowing down what aspect is legalized.

We will also be bringing before you another bill. Together, we had at least ten requests for this. In each case we have thoroughly investigated it, using the secretary of state office and anyone else that we felt needed to inform us. We have done some juggling and this takes care of three of them in this bill. We'll have another bill coming up, so if one of your towns is not included please do not worry. Come see

me after the session and we will see to it that it is also taken care of. We are doing our best to be as fair and reasonable and protect the legislature's interest.

AMENDMENT TO HB 978

Amend the title of the bill by replacing it with the following:

AN ACT

legalizing certain town meetings.

Amend the bill by replacing all after the enacting clause with the following:

1 Town of Kensington. These actions, votes, and proceedings of the Kensington annual town meeting held on March 12, 1987, relative to warrant articles 12, 13, 14, 15, 16, and 17, addressing the capital improvements program to be paid for out of the land use tax, are hereby legalized, ratified, and confirmed.

2 Town of Atkinson. Those actions, votes, and proceedings of the Atkinson town meeting held on March 10, 1987, relative to warrant article 30, for the purpose of updating, restoring, and repairing certain fire department equipment, are hereby legalized, ratified, and confirmed.

3 Town of New Ipswich. All actions, votes, and proceedings of the New Ipswich special town meeting held on July 15, 1987, including, but not limited to, action taken on article 2, the authorization for land acquisition bonds, are hereby legalized, ratified, and confirmed.

4 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

The amended bill legalizes actions taken at certain town meetings. Amendment adopted. Ordered to Third Reading.

HB 1098-FN, establishing a committee to study surrogate motherhood. Ought to Pass with Amendment. Senator Krasker for the Committee.

SENATOR KRASKER: Surrogate motherhood is one that's fraught with danger and has many ramifications. It is not just social ramifications and philosophical ramifications, but also, legal ones. This bill establishes a committee to study the whole issue of surrogate motherhood and report back on November 15th, 1989. The report will include recommendations for legislation. They will go to the Speaker

of the House, the Senate President and to the Governor. We had a hearing with no opposition to this bill. Everybody agreed, regardless of how they felt about the whole issue of surrogate motherhood, that it should be studied further and this is our recommendation and we urge its adoption.

SENATOR HOUNSELL: I rise in support of passing the study committee and I have no problem with the amendment. I would like to point out, however, to those who are listening, that this issue has been before us before and, again, I think it is timely to just update you on some rather interesting rulings in regards to the Baby M case, which we are all familiar with. That being that, shortly after this body decided not to put a ban, this current year, on surrogate parent contracts for a fee, it was within a week that the Supreme Court in New Jersey ruled that, indeed, those type of contracts are in violation of the Supreme Court of that land. I contend that that was an appropriate ruling; I believe that it was appropriate ruling if that should occur in this state. I think it would be extremely responsible, that as we study the problem, that we have in place a ban for a fee. I am not prepared to offer that, but I just want to let my feelings be known that these surrogate contracts for a fee is really nothing more than selling of human lives and that is wrong.

AMENDMENT TO HB 1098-FN

Amend subparagraph I(b) as inserted by section 1 of the bill by replacing it with the following:

(b) Two senate members, one from each major political party, to be appointed by the senate president; or their designees.

Amendment adopted. Ordered to Third Reading.

Recess.

Out of Recess.

Senator Bartlett in Chair.

HB 1182-FN, relative to rate-setting for children's services, and establishing a committee to study rate-setting for health and human services, children, youth and elderly, and education. Ought to Pass with Amendment. Senator McLane for the Committee.

SENATOR MCLANE: This bill establishes into law appeals procedure for rate setting within children services and calls for an annual review of such rates. It also establishes a task force to study and

propose legislation relative to an independent rate setting commission. It was said that it was a conflict of interest to set the rates and run the uphill process. So, the bill does set up a task force.

AMENDMENT TO HB 1182-FN

Amend RSA 170-G:4, XVII-a as inserted by section 2 of the bill by replacing it with the following:

XVII-a. Review annually the rates established for the purchase of services, placements and programs pursuant to paragraph XVII of this section. This annual review shall consider the effects of the established rates on current costs, quality and availability of services.

Amend paragraph II of section 4 of the bill by replacing it with the following:

II. Three members from the senate or their designees, appointed by the president of the senate.

Amendment adopted. Referred to Finance (Rule #24)

HB 948, allowing a village district to be established for the purposes of transportation of people in the village district. Ought to Pass with Amendment. Senator Preston for the Committee.

SENATOR PRESTON: This act allows a village district to be established for another purpose, that of transportation for the people of a village district and surrounding areas. The amendment, on page 7, allows that authorization, subject to the approval of voters in an annual town meeting.

AMENDMENT TO HB 948

Amend RSA 52:1, I(o) as inserted by section 1 of the bill by replacing it with the following:

(o) the acquisition, maintenance, and operation of equipment for the mass transportation of people to, around, and through the village district, subject to the approval of voters at the annual town meeting.

AMENDED ANALYSIS

This bill, as amended, adds a new purpose for which village districts may be established, namely, the acquisition, maintenance, and operation of equipment for the mass transportation of people to,

around, and through a village district, subject to the approval of voters at the annual town meeting.

Amendment adopted. Ordered to Third Reading.

HB 1167-FN, relative to elderly property tax credits. Ought to Pass with Amendment. Senator Roberge for the Committee.

SENATOR ROBERGE: The bill creates a single procedure for adoption of the elderly tax credits by cities and towns. As amended, it provides for any one seeking an abatement or an exemption under the elderly tax abatement law. That amount will be an automatic lien on the property to be returned to the town or city when that person dies.

AMENDMENT TO HB 1167-FN

Amend RSA 72:33 as inserted by section 1 of the bill by replacing it with the following:

72:33 Application for Exemption or Credit. No person shall be entitled to the exemptions or credits provided by RSA 72:28, 29-a, 30, 31, 32, 35, 36-a, 37, 37-a, [39, 43-b, 43-f,] 43-h, 62, 66 and 70 unless he shall have filed with the selectmen or assessors, on or before April 15 of some year, a permanent application therefor signed under penalty of perjury, on a form approved and provided by the commissioner of revenue administration showing that the applicant is duly qualified and is the true and lawful owner of the property on which the exemption or credit is claimed. If the property is subject to a mortgage, the owner must have the mortgage holder's approval to apply for a credit. Any person who changes his residence after filing such a permanent application shall file an amended permanent application on or before the April 15 immediately following his change of residence. The filing of the permanent application shall be sufficient for said persons to receive these exemptions or credits on an annual basis so long as the applicant does not change his residence. If any person, otherwise qualified to receive an exemption or credit, shall satisfy the selectmen or assessors that he was prevented by accident, mistake or misfortune from filing a permanent application or amended permanent application on or before April 15 of the year in which he desires the exemption or credit to begin, said officials may receive said application at a later date and grant an exemption or credit thereunder for that year; but no such application shall be received or exemption or credit granted after the local tax rate has been approved for that year. The selectmen or assessors shall file

notice of each credit granted each year with the registry of deeds of the county in which the property is located in order to perfect a tax lien on the property in the amount of the credit.

Amend RSA 72:43-h, I(c) as inserted by section 5 of the bill by replacing it with the following:

(c) The wording of the question shall be: "Shall we adopt [optional adjusted] elderly [exemptions from] property tax credits? The [optional exemptions] credits [, based on assessed value,] for qualified taxpayers shall be as follows: for a person 65 years of age up to 75 years, [(here insert dollar amount)] (_____) of the previous year's property tax gross bill; for a person 75 years of age up to 80 years, [(here insert dollar amount)] (_____) of the previous year's property tax gross bill; for a person 80 years of age or older, [(here insert dollar amount)] (_____) of the previous year's property tax gross bill. The credit shall be determined on the basis of the previous year's tax bill, before any credits or exemptions are taken, for the real estate which the qualified taxpayer occupies as his principal place of residence, together with any appurtenant land or buildings. To qualify, the person must have been a New Hampshire resident for at least 5 years; own the real estate individually or jointly, or if the real estate is owned by his spouse, they must have been married for at least the preceding 5 years. In addition, the taxpayer must have a net income of less than \$10,000 or, if married, a combined net income of less than \$12,000; and own net assets of no more than (here insert dollar amount), excluding the value of the person's residence. Net income shall be determined by deducting from all moneys received from any source whatsoever the following or the sum of the following: (1) Life insurance paid on the death of an insured; (2) Expenses and costs incurred in the course of conducting a business enterprise; (3) Proceeds from the sale of assets; and (4) Social security payments. Each credit granted shall be treated as a tax lien on the property, plus annual interest at 5 percent. This tax lien shall be subject to any prior liens on the property and shall be treated as such in any foreclosure proceeding. If the property is subject to a mortgage, the owner must have the mortgage holder's approval to apply for the credit under RSA 72:33. Approval from the mortgage holder shall not grant the town a preferential lien. When the owner of a property subject to a tax lien dies, the heirs, heirs at law, assignee, or devisee shall have first priority to redeem the estate by paying in full the tax lien plus any interest due. The total of tax liens on a particular property shall not be more than 85 percent of its assessed value."

Amend the bill by replacing section 7 with the following:

7 Transition. Any town or city in which elderly exemptions under RSA 72:39, expanded elderly exemptions adopted pursuant to RSA 72:43-a and 43-b, adjusted elderly exemptions adopted pursuant to RSA 72:43-e and 43-f, or any other type of elderly exemptions are in effect prior to the effective date of this act shall retain these exemptions, according to the laws corresponding to such exemptions, until the town or city votes, at a town meeting or by official ballot, to adopt elderly property tax credits, which may only be adopted through the procedure set out in RSA 72:43-h. If the town or city adopts elderly property tax credits, each credit, plus annual interest at 5 percent, shall be treated as a tax lien on the property on which the credit is claimed.

AMENDED ANALYSIS

This bill, as amended, repeals the existing laws on the elderly exemption, expanded elderly exemption, and adjusted elderly exemption. The bill creates a single procedure for adoption of elderly tax credits by towns and cities. This procedure is similar to the procedure for adopting optional adjusted elderly exemptions which was enacted as law in the 1987 legislative session. Once a town or city has adopted elderly tax credits under the procedure set out in this bill, it may modify these tax credits once every 5 years. Any town or city which presently has the basic \$5,000 elderly exemption, expanded elderly exemptions or adjusted elderly exemptions shall retain its present exemptions until it wishes to adopt elderly property tax credits. A town or city shall adopt elderly tax credits only through the procedure established by this bill.

As amended, this bill provides that each elderly property tax credit granted, plus 5 percent annual interest, shall be treated as a tax lien on the property on which the credit is claimed.

Amendment adopted. Ordered to Third Reading.

TAKEN FROM THE TABLE

Senator St. Jean moved to take HB 1022 off the table.

Adopted.

HB 1022-FN, relative to investment of public funds. Ought to Pass. Senator Dupont for the Committee.

Senator Dupont moved indefinite postponement for the Committee Report.

SENATOR DUPONT: Earlier today we put HB 1022 on the table as a result of some concern about additional information that came in. At this point in time I am comfortable with the original committee report. Based on the amount of work we have in front of us, I think it would be expedient of us to take care of this bill today and eliminate one more we are just going to have to deal with on the last day. So, it is our recommendation that the bill be indefinite postponed, at the present time.

Adopted.

Senator Nelson moved to take HB 980 off the table.

Adopted.

HB 980, relative to penalties for sewage treatment violations. Ought to Pass. Senator Nelson for the Committee.

Senator Hounsell offered a floor amendment.

SENATOR HOUNSELL: I stand to present this amendment to you for your consideration and merely for your consideration. I do stand behind the committee report. This came up and I thought it was important enough, as did Senator Nelson, that this body should consider it. I don't really speak as to whether we should adopt it, but I want you to know the issue as it pertains to sewage and the municipalities of the State of New Hampshire.

What it says is, the municipalities where sewage is pumped or treated, the mayor and alderman may adopt such ordinances and bylaws relating to system, pumping station, treatment plant or other pertinent structure as required by proper maintenance and operation. That is in as we passed it. The new language that is reflected in the floor amendment is, such ordinances and bylaws shall not be more stringent than applicable federal or state standard regulations of statute. That is what I wanted the whole body to consider. Also, on II we are imposing a civil penalty for the first time in this regard. This is set up as a means to sort of unclog the court system and give other points of redress. The word intentionally is reflected in the floor amendment. What it means is that any person who intentionally violates any sewer ordinances may be subject to a civil penalty. The new word is "intentionally". I would like to have the body

understand that those are the changes in the floor amendment. I, myself, support them, however, I want this body to discuss them and to come up with its final determination.

SENATOR KRASKER: I want to make it clear that I do support the bill itself. I rise to take exception with the amendment because while the first part of I is permissive, the permissive aspect is taken away with the words "except that such ordinances and bylaws shall be no more stringent than applicable federal and state statutes regulations or standards." At the present time municipalities do have the right to pass ordinances which are more stringent; they can't pass weaker ordinances and I think that is a very, very important right for communities to have because every community has very unique circumstances and, very often, that does require different local standards. I think the permissive aspect is very good, it has worked well. I don't want to see that changed by this amendment so, I am going to vote against this amendment and, I would hope that you would join me in this.

SENATOR HOUNSELL: Senator Krasker, I do appreciate your comments and the debate that we are beginning here. This is an important issue and I recognize what you are saying. However, the purpose of the language in the first is that we don't allow an open door by municipalities to restrict by some unfair means perhaps of expansion upon the system, that is further development. I think that it is important enough for us to consider at this time, and I do support the amendment, so that this very important issue could go to a committee of conference where it can be discussed further. I think that what we have to look at is that as we attempt to do the right thing that we don't close the door of opportunity to those people in the private sector who also desire to do the right thing. I just want to know if you understand that that is where I am coming from?

SENATOR KRASKER: I do. I hope that you understand that I have checked with my community and they see a real problem with this. I think there is a problem for other municipalities.

SENATOR HOUNSELL: Under civil liabilities, I didn't think there would be the problem with this as there was before. I was just wondering if you could explain to me why you would propose that someone intentionally violated an ordinance would be subject to a civil penalty of \$10,000 a day, if it wasn't their intention?

SENATOR KRASKER: My objection is to I and, this has been given to us as an entirety. There is no way that I can vote for I, II, and III if it includes I.

SENATOR HOUNSELL: Would you then not agree that it would be responsible for us, as we address this issue, to pass this floor amendment? It is my understanding the House would ask for a committee of conference and there we could go in and make sure that the provisions as they should appear, do appear?

SENATOR KRASKER: I might be willing to vote for the amendment, if today we remove I, so that it just included II and III, but as it stands I will vote against it.

Floor Amendment to HB 980-FN

Amend RSA 149-I:6, I, II and III as inserted by section 1 of the bill by replacing them with the following:

I. In municipalities where the sewage is pumped or treated, the mayor and aldermen may adopt such ordinances and bylaws relating to the system, pumping station, treatment plant or other appurtenant structure as are required for proper maintenance and operation. Such ordinances and bylaws shall not be more stringent than applicable federal or state standards, regulations, or statutes.

II. Any person who intentionally violates any sewer use ordinance or bylaw adopted pursuant to paragraph I of this section shall be subject to a civil penalty not to exceed \$10,000 per day of such violation.

III. Any person who intentionally violates any sewer use ordinance or bylaw adopted pursuant to paragraph I of this section shall be guilty of a misdemeanor, and, notwithstanding the provisions of title LXII, shall be subject to a fine of not more than \$25,000 for each day of such violation or imprisonment for not more than 6 months, or both.

AMENDED ANALYSIS

This bill establishes a penalty of \$25,000 per day or imprisonment for 6 months, or both, on any person intentionally violating sewer use bylaws and ordinances. The current penalty for willful violations is a violation within the meaning of RSA title LXII.

The bill, as amended, also establishes a civil penalty not to exceed \$10,000 for each day of an intentional violation of any bylaw or ordinance relating to sewer use.

Floor amendment Adopted. Ordered to Third Reading.

SUSPENSION OF SENATE RULES

Senator Dupont moved that the Rules of the Senate be suspended as to allow the introduction of a committee report not previously listed in the calendar.

Adopted. (2/3rds vote requested.)

Recess

Out of Recess

Senator Blaisdell in the Chair.

SB 356, relative to involuntary admissions under limited circumstances for the developmentally impaired. Ought to Pass. Senator Podles for the Committee.

SENATOR PODLES: SB 356 is a product of a past bill that was formed at the end of the 1987 session. The bill closes an apparent dearth in the mental health laws. Currently there is no provision in the law to involuntarily commit certain persons who could be a danger to themselves or to others. This group of certain persons includes one who is developmentally disabled and who has committed a felony involving serious bodily injury, but who has been found, in the Superior Court, to be incompetent to stand trial. It provides a limited procedure in the law for handling this type of situation. It also allows petitions to be brought in the probate court by the attorney general's office or the office of the director of mental health, once the situation happens. No one else can bring these petitions. The bill also requires that the person evaluating the subject be a person qualified to work with the developmentally disabled and this evaluation happens before the probate court hearing. The committee recommends ought to pass and we urge your support.

SENATOR NELSON: Although this bill came out of committee four to one, I was the only dissenting vote. Senator Podles is correct. There is a huge gap in the law. I do not believe that this particular piece of legislation does it. It is the mental health department, they are taking everything from the mental health changing a few words and brought this forward. On page 12 of the bill, it says that a justice of the peace can sign this report, a justice of peace. There is no question about it, this problem has to be addressed but this is not the way to do it. There are other statutes. It's another one of those bills brought before us, by the attorney general's office because

there's one person in this state, one person, this is a law for one person and what might happen down the road.

SENATOR BARTLETT: Senator Nelson, I really can't believe that you're telling me that someone should be able to commit murder, a hideous murder, and not be able to go to trial and yet walk on the streets with the ability to do that same act again. Are you telling me that?

SENATOR NELSON: If that's the way you so choose to frame what I just said, so be it. That was not what I was saying. I'm suggesting that if that is the problem, then there are other ways to solve it. It's my opinion that this bill was brought in late and it does not properly address the situation.

SENATOR BARTLETT: In absence of my knowledge, having spent quite a bit of time on this bill, would you tell me what other avenues we have because the attorney general did bring this in and has tried to find other avenues. Now, do we have other avenues that you're aware of where we can handle this type of situation?

SENATOR NELSON: Senator Bartlett, I think if we had looked a little bit more closely at the partnership statutes we may, in fact, could have addressed it that way. I do not have those in front of me, in that I did not know that this was going to happen. Otherwise, I would have had my notes and I could have quoted you the exact RSA.

SENATOR BARTLETT: Senator Nelson, are you aware that the committee of conference, last week, between the House and Senate spent considerable time on this and almost reached a conclusion, based almost on the same fundamentals of this bill. It was felt that the attorney general that this bill would meet the requirements in response to the committee of conference between the Senate and the House since last year?

SENATOR NELSON: Sir, I was aware of that and last year I voted against this. There was a task force, I am aware of, that was set up. The way in which it appeared in the calendar did not indicate that this was the proper result, very few people in the public have a chance to get in here to testify against this, myself included. I don't deny that we need to solve the problem, I don't deny that there is a gap, I do not deny that all murderers should pay for their crimes. I suggest that what you are doing, in this particular piece of legislation, is not the appropriate way in which to do it.

SENATOR WHITE: Senator Nelson, you referred on page 12 or 14, to the justice of the peace. What is the current law?

SENATOR NELSON: That is the current law. I'm just pointing out how poorly the current law is written and that we want to pass it on to take care of other problems.

SENATOR DUPONT: I would just like to give a little background on the bill and why it came in late. I appreciate the comments of Senator Nelson, but part of the problem was waiting for the task force that has been working on this issue to bring in their report. The attorney general requested that we bring it in this session because, as you all know, there has been a situation that, under present law, can't be dealt with. I would think the situation is serious enough that given the fact that the legislature last session could not come to an agreement, that we have an opportunity to have a bill in front of us that is the consensus of a study committee that was put together to resolve this issue, that we ought to be able to deal with it today. I sympathize with Senator Nelson's concerns, but she offers no alternative to solve the problem at the present time and I think it needs to be dealt with. I urge my colleagues to allow this to be passed by the Senate and sent over to the House so that they will have sufficient time to work on it.

SENATOR MCLANE: I, too, have an interest in this bill, because I equate it with the bills about criminal insanity that were hard fought and difficult to deal with in the last session. This is a very difficult issue. I wonder, first of all, why this bill is coming in unannounced at the end of the session when none of us had an opportunity to read it, in any way?

SENATOR PODLES: Senator, we've not only received this bill, but we've received like five other bills yesterday. I don't know whether you'd call that the last minute.

SENATOR MCLANE: Those were House bills, the other ones.

SENATOR PODLES: Right, they were House bills.

SENATOR DISNARD: I came to this body with an open mind. I'm a registered democrat, but I also represent republicans and republicans elected me. I object to the fact that this bill is now being put that republicans should vote for it because the democrats are going to vote against it. I come here to vote for what I think is right and this type of procedure really bothers me.

SENATOR STEPHEN: I, also, am upset with the majority leader for what he said and I often vote with the republican issues but I don't place it as a republican or democrat, it's a people's issue. If this bill does help some of the people, especially in murders that are committed, I think I would have liked to, but Senator Dupont is placing it as a partisan issue and I think that's wrong.

SENATOR BARTLETT: I think this has gotten a little bit out of content. We are here, in the last few days of the Senate session, and this task force is not just considered of Senate members. Now, if you wish to take away the right of the rest of the task force, those participating from the House side by not voting this bill today, and postponing it until Tuesday, you'll be taking away the opportunity for those people, who are also on the task force, to address this bill. We will not be able to address it until 1989. We really don't plan to make this a political issue, we'd like to make it an issue to really allow both bodies to take a look at a piece of legislation that came in late. The attorney general's the one that brought it in late and if you really want to hang your hat on the political side of this go ahead. But, if you really want to try to produce the session and make things move smoothly and allow the House to look at this piece of legislation, you'll vote down Senator St. Jean's motion and you'll pass it over to the House, if you believe it's a good piece of legislation.

SENATOR STEPHEN: Senator Bartlett, I do believe that this is a good piece of legislation, but why not see that you're making this a partisan issue, listen to Senator St. Jean's motion and table this until next week?

SENATOR BARTLETT: Senator Stephen, I'm sure you're aware of where we are and what the joint rules are. The joint rules will tell you that if this does not come out of this body today, it can not be advertised in the House calendar and it can not be acted upon in the House this session. It is my intention that this is a good piece of legislation, we'll pass it out. If it's a bad piece of legislation, we'll kill it today.

SENATOR STEPHEN: So, do you believe, as Senator Dupont has suggested, that this is a republican bill?

SENATOR BARTLETT: I would hope that you would look at it in your usual intelligent manner, knowing that it was a good bill and vote for it.

SENATOR HOUNSELL: Senator St. Jean, I really sense that the issue is not partisan, I really think that. I think the issue is some-

thing that we all care deeply about. I think what might be the question right now is kind of getting the parties at each other is your motion. Given that, chances are your motion being a decisive thing, at this time, because of the comments made previously, would you consider withdrawing your motion at this time?

SENATOR ST. JEAN: Senator, if you'd sit down I'd do just that.

Senator St. Jean moved to withdraw his motion.

Question: Ought to Pass.

Adopted. Ordered to Third Reading.

Senators Nelson, McLane and Krasker wished to be recorded as opposed.

Recess

Out of Recess

Senator Bartlett in the Chair.

HOUSE MESSAGE

HOUSE REQUESTS CONCURRENCE WITH AMENDMENTS

SB 243-FN, reinstating the passenger tramway safety board.

Senator McLane moved to concur.

Adopted.

SB 276-FN, establishing a panel to address the effectiveness of the delivery of services to children and their families.

Senator Podles moved to concur.

Adopted.

SB 351, relative to regional banking and mutual savings banks.

Senator Dupont moved to concur.

SENATOR WHITE: I think we've fought this fight and we've lost. I only hope that what everyone has said, indeed, happens and that this account that we have in the New Hampshire banks has not been put at risk by this particular piece of legislation. I certainly hope that our money doesn't go off to the third world nations and the rest. I know that we don't have the votes and I just sincerely hope that this is not a mistake on the part of New Hampshire.

SENATOR STEPHEN: I'd just like to know if the little people of the State of New Hampshire are going to be protected with this bill?

SENATOR DUPONT: I would just like to assure Senator White and Senator Stephen that the prediction of doomsday, which were given on the Senate floor last time around when we dealt with interstate banking, never took place and I would hope that the accuracy of our predictions at the time, that this is going to be to the benefit of the consumers of the State of New Hampshire, still holds true at the present time. They have my assurances that the little guy will be protected.

Adopted.

Senator Bartlett and Senator Preston took Rule 42.

Senators Roberge, Krasker, White and Charbonneau wished to be recorded as opposed.

SB 348, relative to licensing of health care facilities.

Senator McLane moved to concur.

Adopted.

SB 291, relative to refunds of insurance premiums.

Senator Delahunty moved to concur.

Adopted.

SB 271-FN, establishing a study committee to examine the feasibility of relocating state agencies in Concord.

Senator Torr moved nonconcurrency and requested a committee of conference.

Adopted.

The President appointed Senators: Torr, White and Nelson.

SB 279, relative to motor vehicle emissions testing.

Senator Preston moved nonconcurrency and requested a committee of conference.

Adopted.

The President appointed Senators: Preston, Torr and Hounsell.

SB 306-FN, relative to low-dose mammography screening.

Senator Krasker moved nonconcurrency and requested a committee of conference.

Adopted.

The President appointed Senators: Krasker, Podles and Bond.

COMMITTEE OF CONFERENCE REPORT ON HB 848

The committee of conference to which was referred House Bill 848, An Act relative to burials on private property, having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend RSA 289:2-a as inserted by section 1 of the bill by replacing it with the following:

289:2-a Location of Burial Site. Burials on private property, unless in an existing burial ground, shall comply with local zoning regulations. In the absence of such regulations, such burial sites shall not be closer than 100 feet from the right-of-way of any highway, or closer than 100 feet from an existing dwelling house or no closer than 50 feet from a known source of water, and the location of the burial site shall be recorded in the deed to the property upon transfer of said property to another person.

Conferees on the Part of the Senate

Sen. Pressly, Dist. 12
Sen. Heath, Dist. 3
Sen. Charbonneau, Dist. 14
Rep. E. Flynn, Straf. 8

Conferees on the Part of the House

Rep. Benton, Rock. 5
Rep. Welch, Rock. 10
Rep. Anderson, Merr. 7

Senator Heath moved to adopt.

Adopted.

ENROLLED BILLS REPORT

HB 749, permitting persons qualified to hunt from motor vehicles to hunt from OHRV's and ATV's.

HB 790, relative to the public investments study committee.

HB 843, appropriating funds for the Northeast Rural Water Association for equipment, technical assistance and training to rural water systems.

HB 883, relative to resident and nonresident wholesale marine species licenses.

HB 893, making a supplemental appropriation to the fish and game department.

HB 947, relative to school system pupil registration information.

HB 1016, relative to municipal borrowing due to certain bankruptcies.

HB 1053, establishing the position of chief boiler inspector.

HB 1091, allowing the insurance commissioner to impose and collect fees for submissions of continuing education courses in the insurance field to reimburse the continuing education advisory council and making an appropriation therefor.

HB 1192, establishing a task force to study long term care insurance for the elderly.

HB 1178, relative to counting absentee ballots before the polls close.

SB 238, relative to bail reform.

SB 293, relative to asbestos management.

HB 627, to provide a loss carry forward under the business profits tax and relative to partnership and proprietorship deductions for compensation.

RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the

present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, April 12, 1988 at 1:00 p.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 310-A, relative to a second bridge across the Nashua River in the city of Nashua and making an appropriation therefor.

HB 313-A, relative to the widening , realignment, and improvement of the Route 3-A and Pinecrest Road intersection in Litchfield.

HB 832, establishing a 10-year bridge construction and reconstruction plan.

HB 1109-A, relative to the purchase of the Cheshire bridge in the town of Charlestown and making an appropriation therefor.

HB 894, relative to consideration of water companies as public utilities.

HB 816, prohibiting the hunting of mourning doves in New Hampshire.

HB 739, relative to appeals from the denial of building permits in municipalities without zoning ordinances.

HB 1161, relative to health insurance for members of the general court.

HB 1199-FN, relative to unemployment compensation and relative to the division of standard and certification, department of education.

HB 963-FN, relative to certain public utility contracts.

HB 998-FN, relative to liability to manufacturers.

HB 746, relative to legalizing the Winchester town meeting.

HB 978, legalizing certain town meetings.

HB 1098-FN, establishing a committee to study surrogate motherhood.

HB 948, allowing a village district to be established for the purposes of transportation of people in the village district.

HB 1167-FN, relative to elderly property tax credits.

HB 980, relative to penalties for sewage treatment violations.

SB 356, relative to involuntary admissions under limited circumstances for the developmentally impaired.

Senator Hounsell moved reconsideration on HB 816, prohibiting the hunting of mourning doves in New Hampshire.

Division vote: 6 Yeas 14 Nays.

Motion lost.

Senator Dupont moved that the Senate adjourn.
Adopted.

Adjournment.

Tuesday, April 12, 1988

The Senate met at 1:00 p.m.

A quorum was present.

The Speaker of the House in the Chair.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, we wonder often times what goes on within the minds of those who run local, state and the U.S. government. It seems as though they say, "they want to cut down on spending", but resort to pork barreling their way around. Is that any way, Lord, to help others as they would be helped! Heaven help us! We remember our fellow Christians as they celebrate Greek Eastertide.

Amen

Senator Freese led the Pledge of Allegiance.

Recess

Out of Recess

Senator Bartlett in the Chair

INTRODUCTION OF GUESTS

CORRECTION

Senator Krasker was mistakenly recorded as being opposed to the House amendment on SB 351, relative to regional banking and mutual savings banks, on April 7, 1988.

COMMITTEE REPORTS

HB 743, relative to security deposits on rental property. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: HB 743 came in to the Banks committee and basically it deals with security deposits on rental property. The bill, as it originally came in, would have required that landlords pay interest on security deposits on a yearly basis. We amended the bill to provide for a yearly interest on security deposits after three years of tenancy, figuring that the bookkeeping involved would be considerably less in the case of tenants that move frequently.

AMENDMENT TO HB 743

Amend RSA 540-A:6, IV(c) as inserted by section 1 of the bill by replacing it with the following:

(c) Notwithstanding RSA 540-A:7, I, a tenant may request the interest accrued on a security deposit every 3 years, 30 days before the expiration of that year's tenancy. The landlord shall comply with the request within 15 days of the expiration of that year's tenancy.

AMENDED ANALYSIS

This bill, as amended, allows tenants to request the interest due on a security deposit every 3 years and requires the landlord to comply with such request.

Amendment adopted. Ordered to Third Reading.

HB 812, relative to mutual savings banks. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: HB 812 deals with an issue that this body has previously passed this session, but was amended out by the House. This is the issue that was brought up to the Supreme Court relative to Portsmouth Savings Bank and a takeover of a mutual bank by another bank. Basically, with the assistance of the banking commissioner, we feel that we've addressed all the issues that the original Supreme Court case raised. The bill, basically, brings the banking department's interpretation of what happened in that case into compliance.

AMENDMENT TO HB 812

Amend the title of the bill by replacing it with the following:

AN ACT

relative to mutual savings banks and
mutual holding companies.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Public Policy on Rejection of Proposals for Conversions of Mutual Savings Banks and Mutual Holding Companies. Amend RSA 386-A by inserting after section 7 the following new section:

386-A:7-a Rejection of Proposals for Conversions.

I. Notwithstanding any other law to the contrary, it shall be the public policy of this state in its exercise of police power over the regulation of banking to allow a trustee, board of trustees, board of directors, incorporator or incorporators of a mutual savings bank or mutual holding company to deny any proposal by any person or other entity not acting on behalf of the board of trustees or board of directors without such denial being construed as a failure by the trustee, board of trustees, board of directors, incorporator or incorporators to perform any legal obligation, either express or implied, if acceptance of such petition would result in either of the following:

(a) The cessation of the bank's or mutual holding company's standing as a mutual savings bank or mutual holding company; or

(b) The substantial alteration of a plan of conversion submitted for consideration by the board of trust company incorporation pursuant to RSA 386:10, II, or to the bank commissioner pursuant to RSA 394-A:10.

II. "Mutual holding company" means mutual holding company as defined in RSA 386-B:1, I.

2 Dividends; Converting Form. Amend RSA 386:10, I to read as follows:

I. After providing for the requirements of the guaranty fund, savings banks and savings departments of trust companies may pay dividends from their net income, but not in excess of 3 1/2 percent per year, unless the total value of the assets of such savings bank or savings department, as determined by the commissioner, shall exceed the amount due the depositors by at least 5 percent. No board of trustees of a savings bank is required to pay dividends on net income as permitted in this paragraph nor shall any such board or any of its trustees be liable to any depositor of the savings bank for not paying such dividends.

3 Effective Date. This act shall take effect January 1, 1989.

AMENDED ANALYSIS

This bill, states that it is New Hampshire's public policy to limit the legal liability of a trustee, board of trustees, board of directors, incorporator or incorporators for denying petitions by persons not acting on behalf of the board of trustees or board of directors if acceptance of the petition would result in: (1) the cessation of the bank's or mutual holding company's standing as a mutual savings bank or mutual holding company; or (2) the substantial alteration of certain other plans of conversion.

This bill, as amended, also states that no board of trustees or any of the trustees of a savings bank is required to pay dividends on net income or may be held liable for failure to pay such dividends.

Amendment adopted. Ordered to Third Reading.

HB 996-A, relative to the state's purchase of the Hillsborough county courthouse and making an appropriation therefor, and relative to asbestos removal in the courthouse. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR: HB 996-A authorizes the purchase of the Hillsborough county courthouse for the sum of 3.1 million dollars. The amendment takes out the portion dealing with asbestos.

AMENDMENT TO HB 996-A

Amend the title of the bill by replacing it with the following:

AN ACT

making an appropriation for the state's purchase
of the Hillsborough county courthouse.

Amend the bill by replacing section 1 with the following:

1 Appropriation; Supreme Court; Purchase of Hillsborough County Courthouse. The sum of \$3,100,000 is hereby appropriated to the supreme court for the fiscal year ending June 30, 1989. The supreme court shall pay such sum to the Hillsborough county commissioners for the purchase by the state of the facility presently known as the Hillsborough county courthouse in Manchester.

AMENDED ANALYSIS

This bill makes a \$3,100,000 appropriation for the fiscal year ending June 30, 1989, to the supreme court for the state's purchase of the Hillsborough county courthouse.

Amendment adopted. Ordered to Third Reading.

HB 1000-FN-A, relative to the Christa McAuliffe memorial and making an appropriation therefor. Ought to Pass with Amendment. Senator Heath for the Committee.

SENATOR HEATH: This is the Christa McAuliffe planetarium, in effect, enactment bill. This is a piece of legislation that came out of the committee that was originally established to find a suitable memorial from all the suggestions and telephone calls and letters that people in the State government were getting. The committee had a whole series of hearings and advertised that they were taking ideas. We boiled it down to a planetarium. We looked at a number of architects. It's a long process and it's an awful long calendar today, so I won't go through the whole thing as most of you are familiar with what's happened. We have come down with the state-of-the-art planetarium to be located in Concord at the Tech. school. When it's completed, it will be, in quality wise, the best in the nation. We boiled every last dollar out of it that we could without really endangering its ability to be the best and be suitable, not only a suitable memorial, but a very suitable scientific facility for the children of the State, as well as an attraction for tourist in the summer and families. I just urge you with everything that I can to go forward with this. A lot of the money, we feel, is the potential to recoup that in donations and in contributions. I won't promise you the extent that we can do

that, but we'll do it to the extent that's possible. I would urge you to go with the committee report and let us move along. We have contracts that are waiting a year in advance; we have to order the actual planetarium and they are holding a price for us on that. So, if we can move this forward today we can get that lower price and it will take a year for them to build the planetarium unit that projects. That's our most urgent thing at this moment.

SENATOR MCLANE: Because I was the other Senate member with Senator Preston that served with Senator Heath, I just wanted to add a few words about this project. It will not be a memorial to Christa McAuliffe as much as a teaching facility. I think if I could take just but a moment, because Roger and I went out to see two planetariums out in Indiana and Illinois, to describe to you the sort of thing that's going to happen in a year and a half when this planetarium is completed. You're going to have a bus load of kids coming down from Berlin, New Hampshire. Say, their teacher will have had an opportunity to attend teacher's classes at the planetarium and these kids will come down by bus, see the Voc-Tech school, picnic on the lawn and go into the planetarium. It's going to be 40 feet wide, the seats are very cushioned and you lean back in them. The kids will settle quietly into the planetarium and the lights will start to darken and around the edges, with 56 cameras projecting, will be the sky line of the city of Berlin, with Mount Washington and the sun setting on the mountain. If they come from Keene, it will be the outline of the city of Keene. It is infinite, the possibilities that will be afforded to the children of New Hampshire. I would just like to close by quoting from Christa McAuliffe and say that this planetarium is going to give the children of New Hampshire an opportunity to, themselves, reach for the stars.

AMENDMENT TO HB 1000-FN-A

Amend RSA 21-K:11, III and IV as inserted by section 1 of the bill by replacing them with the following:

III. Two members to be appointed by the governor with the consent of council for a term of 3 years.

IV. The commissioner of postsecondary vocational-technical education, the commissioner of libraries, arts, and historical resources, and the commissioner of education shall serve as ex officio members of the commission with full voting rights.

Amend the bill by replacing sections 3-5 with the following:

3 Capital Construction Appropriation. The sum of \$2,580,000 is hereby appropriated to the Christa McAuliffe planetarium commission for the purpose of constructing, furnishing, and equipping a planetarium to be located on the campus of the New Hampshire technical institute.

4 Bonds Authorized. To provide funds for the appropriation made in section 3 of this act the state treasurer is authorized to borrow upon the credit of the state not exceeding \$2,580,000 and may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

5 Payment of Bond. Payments of principal and interest for the bonds authorized in section 4 of this act shall be made from funds available from the fund established by RSA 21-K:16 to the extent funds are available. If funds are not available from such fund, payments of principal and interest of the bonds and notes shall be made from the general funds of the state; provided that the general fund shall be reimbursed for such payments from the fund established by RSA 21-K:16.

Amend the bill by replacing all after section 7 with the following:

8 Joint Legislative - Executive Committee; Powers. The joint legislative - executive committee to memorialize Christa McAuliffe shall continue to exist and have the powers granted it under RSA 6:13-c with relation to the Christa McAuliffe planetarium fund established under RSA 21-K:16, until such time as the members of the Christa McAuliffe planetarium commission have been appointed and the commission holds its first meeting.

9 Commission Reports. The Christa McAuliffe planetarium commission shall provide the capital budget overview committee and governor and council with progress reports and financial reports relative to the planetarium at such times and in such manner as the committee may require.

10 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill, as amended, establishes a Christa McAuliffe planetarium commission to manage the planetarium to be constructed at the New Hampshire technical institute. The commission is to consist of 9 members.

Under this bill, the commission shall be an administratively attached agency under RSA 21-G:10 to the department of libraries, arts, and historical resources.

This bill also establishes a Christa McAuliffe planetarium fund and repeals the fund previously established under RSA 6:13-c.

This bill appropriates \$100,000 from the general fund to the new fund for the beginning of the operations of the commission. The bill also appropriates \$2,580,000 to the commission for the purpose of constructing the planetarium. The latter appropriation shall be bonded.

Amendment adopted. Ordered to Third Reading.

HOUSE MESSAGE

HOUSE REQUESTS CONCURRENCE WITH AMENDMENT

SB 345-FN, relative to disciplinary proceedings conducted by the committee on judicial conduct.

Senator Podles moved nonconcurrence and requested a committee of conference.

Adopted.

The President appointed Senators Podles, Preston and Bartlett.

COMMITTEE REPORTS

HB 1198, relative to work programs for individuals in need of municipal assistance. Inexpedient to Legislate. Senator Freese for the Committee.

SENATOR FREESE: After hearing this bill and listening to all the testimony and research that we were exposed to, we decided that this was a volatile bill that it would make conflicts in the law if we passed it. The law is already there; it's very clear; so we recommend inexpedient to legislate and hope you support the committee report.

Adopted.

HB 889-FN, requiring all new statutes to be written in gender-neutral form. Inexpedient to Legislate. Senator White for the Committee.

SENATOR WHITE: HB 889 had a good hearing in the Senate's Executive Departments and they, in their good wisdom on a four to one vote, voted inexpedient to legislate. Basically what it does is require all statutes after July 1st to be written in gender-neutral form.

That's just like going to the Bible and changing everything in the Bible to gender-neutral. When I was a selectmen I still preferred to be called a selectmen; it's the position not the person and I would urge your support of the committee report of inexpedient to legislate.

Adopted.

Senator Pressly wished to be recorded as opposed.

HB 1078-FN, relative to cosmetologists and pedicurists. Inexpedient to Legislate. Senator White for the Committee.

SENATOR WHITE: They researched this issue extensively. They found that there is no school that really wants to hire people to do pedicures. No one wants to do pedicures because of the existing problems that exist out there, in regards to health issues, so, the committee report is inexpedient to legislate.

Adopted.

Senator Charbonneau wished to be recorded as taking Rule 42.

Recess

Out of Recess

Senator Preston in Chair

HB 850, exempting motor vehicles carrying washed sand, screened loam, and crushed stone from obtaining a cargo insurance policy or indemnity bond. Ought to Pass with Amendment. Senator Bond for the Committee.

SENATOR BOND: The amendment that's published in the calendar is incorrect. I'm going to ask that you vote no on the motion to amend. Then I am distributing a floor amendment, which I will explain to you.

Amendment Failed.

Senator Bond offered a floor amendment.

SENATOR BOND: The basic bill, HB 850, exempts motor vehicles carrying washed sand, screened loam and crushed stone from obtaining a cargo insurance policy or indemnity bond. The amendment deals with the definition of what is crushed stone, loam or earth. The problem relates to the difference between quarrying and crushing of

granite, versus the quarrying for granite for its whole use. As amended, it authorizes the State to regulate the extraction of minerals, including removal of dimensional stone, and it leaves to municipalities the power to regulate the removal of earth to be used as construction aggregate. So, the committee urges that you vote for the floor amendment and passage of HB 850 as amended.

SENATOR JOHNSON: Senator Bond, earlier a bill regarding a mining regulation was sent to interim study and, as I glance at what I consider to be rather a major floor amendment, I'd like to have you explain to me the relationship between that bill and this amendment here.

SENATOR BOND: I have no knowledge of any prior bill. I'm not familiar with it. What this does is clarify the situation as it arose from the town of Raymond, where the construction people chose to ignore the local regulation and chose to say that it was state regulation pertaining to the removal of granite that was then crushed and made into construction aggregate. This reinstates the right of the local municipality to manage, if that is the situation.

SENATOR BARTLETT: Senator Bond, do I understand the amendment? It takes the crushed part and gives the power back to the locals, the dimension remains with the State; we're talking about granite?

SENATOR BOND: Exactly, that's correct.

SENATOR BARTLETT: The Supreme Court decision gave the power all to DRED?

SENATOR BOND: If it were cut out of a ledge and then crushed, it remained with the State regulation, under the Supreme Court decision.

SENATOR BARTLETT: A recent Supreme Court decision really gave all the power to the State and took it away from the towns?

SENATOR BOND: That's correct.

Floor Amendment to HB 850

Amend the bill by replacing all after section 1 with the following:

2 Statement of Intent. It is hereby declared to be the intent of the legislature to clarify the respective roles of state and local governments concerning the regulation of mining and excavation activities

in light of the recent Supreme Court decision in Appeal of Coastal Materials Corporation. The state shall have the power to regulate the extraction of minerals including the removal of dimension stone. The municipalities shall have the power to regulate the removal of earth to be used as construction aggregate.

3 New Paragraph; Dimension Stone Defined. Amend RSA 12-E:1 by inserting after paragraph III the following new paragraph:

III-a. "Dimension stone" means rock that is cut, shaped, or selected for use in blocks, slabs, sheets, or other construction units of specified shapes or sizes and used for external or interior parts of buildings, foundations, curbing, paving, flagging, bridges, revetments, or for other architectural or engineering purposes. Dimension stone includes quarry blocks from which sections of dimension stone are to be produced. Dimension stone does not include earth as defined in RSA 155-E:1, I.

4 Mineral Defined. Amend RSA 12-E:1, V to read as follows:

V. "Mineral" means copper, diatomite, feldspar, garnet, granite, lime, thorium, uranium and any similar solid material or substance excluding sand, gravel and construction aggregate to be excavated from natural deposits or formations on or in the earth or in or underneath water, or from quarrying or crushing of rock or bedrock for the purpose of producing construction aggregate.

5 Construction Aggregate Exempt. Amend RSA 12-E:1, VI to read as follows:

VI. "Mining" means the activities performed in the extraction of minerals including the excavation of pits, removal of minerals, removal of dimension stone, disposal of overburden and the construction of roads for the haulage of mining materials; provided, however, the following shall not be subject to this chapter:

(a) Mining activities for the purpose of improvement of or use on the owner's property [or].

(b) Mining activities for which the permit site would be 5 acres or less and would result in less than 2,000 cubic yards per year excavated [or].

(c) Mining activities in existence [upon] on August 24, 1979, or mining activities for which mining permits have been granted as of the effective date of this [chapter, provided that the operators thereof file for an exemption within one year of said date, stating location, acreage, ownership and any conditions of such activities] paragraph.

(d) Mining or quarrying activities for the production of construction aggregate.

6 Earth Defined. Amend RSA 155-E:1, I to read as follows:

I. "Earth" means sand, gravel, rock, soil or construction aggregate produced by quarrying, crushing or any other mining activity or such other naturally-occurring unconsolidated materials that normally mask the bedrock.

7 New Paragraph; Dimension Stone Defined. Amend RSA 155-E:1 by inserting after paragraph III the following new paragraph:

IV. "Dimension stone" means rock that is cut, shaped, or selected for use in blocks, slabs, sheets, or other construction units of specified shapes or sizes and used for external or interior parts of buildings, foundations, curbing, paving, flagging, bridges, revetments, or for other architectural or engineering purposes. Dimension stone includes quarry blocks from which sections of dimension stone are to be produced. Dimension stone does not include earth as defined in RSA 155-E:1, I.

8 Exemption Defined. Amend RSA 155-E:2, IV to read as follows:

IV. Excavation from a granite quarry for the purpose of producing dimension stone.

9 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill, as amended, exempts motor vehicles carrying washed sand, screened loam and crushed stone from regulations requiring filing of a insurance policy or indemnity bond prior to receiving a certificate or permit under RSA 375-B.

The amended bill authorized the state to regulate the extraction of minerals including the removal of dimension stone. Municipalities, under the amended bill, are authorized to regulate the removal of earth to be used as construction aggregate.

Floor amendment adopted. Ordered to Third Reading.

HB 1066-FN-A, relative to group II of the New Hampshire retirement system and making an appropriation therefor. Ought to Pass. Senator Bond for the Committee.

SENATOR BOND: HB 1066 came about because there was a loophole in the system which allowed approximately 52 people in probation and parole to be put into the system. With this bill, the requirements for membership in group II are tightened and the loopholes closed, sort of shutting the barn door after the horse has escaped, but at least this loophole is closed. The problem is that the extra people in group II will have to be solved in another session.

Adopted. Ordered to Third Reading.

HB 1200, relative to apportionment of damages. Ought to Pass with Amendment. Senator Freese for the Committee.

SENATOR FREESE: I rise in support of the committee report on HB 1200, ought to pass with amendment. Senator Blaisdell and I jointly proposed the amendment to the insurance committee. What we had in mind in doing so was to give the Senate an opportunity once again to do something stronger about the doctrine of joint and several liability than the House did in passing HB 1200 in its original form. I think we really need to do something strong about changing the doctrine of joint liability. The doctrine was invented by the courts and, in New Hampshire, dates back to a case decided in 1916. The doctrine says if you are a defendant in a tort lawsuit and if you are found to be at fault, to any degree, a plaintiff can hold you responsible, not just for your share of the fault, but for the entire judgement. The doctrine of joint liability says the plaintiff can do that, even though you might be less at fault than the plaintiff and less at fault than other defendants in the case. The short of it is, is that as long as the plaintiff is found to be less than 50% at fault, the plaintiff can recover the entire judgement from you, even though you might have only been 5% to blame or 1% to blame. Other than to go through a long explanation of the bill, I would like to shorten my presentation and say that, the majority of the committee believes that the amendment to HB 1200 will provide real relief from some unjust doctrine of joint liability. Everybody believes that something needs to be done about this joint liability doctrine and this is a compromise right down the middle. In order to be liable, you have to be 50% liable in order to be responsible for the entire amount or anything over that amount that is unable to be paid by other joint liability people in the case. The committee recommends ought to pass with amendment and I hope you'll support the committee report.

SENATOR JOHNSON: Senator Freese, what effect will this have on liability insurance rates in New Hampshire?

SENATOR FREESE: It's hoped that it will have a positive effect on liability rates in New Hampshire. The purpose of the bill is to make the insurance more available and affordable.

SENATOR JOHNSON: So, your expectation is just hope or is it a little bit more than that Senator Freese?

SENATOR FREESE: I think it's more than that. I really think this is one of the most important tort reform measures we've had to consider. The Senate has always supported it, changing this law, even

more drastically than this compromise bill does. We're trying to get something that will be approved by the House, as well as the Senate, and it's a compromise right down the middle. I really feel that it will make a tremendous difference in the cost of insurance and the availability of it.

SENATOR NELSON: Senator Freese, what's the impact on the victim.

SENATOR FREESE: Which victim? We've got two victims here, you've got to remember that. You've got a victim that's paying and isn't responsible and you've got a victim out there that's been hurt in an accident. So, we're trying to even this responsibility up, so they have a fair shake.

SENATOR NELSON: I believe the law defines what will happen to one victim and that's the victim to which you refer. I would talk about the injured party, then it could be a little clearer. What would happen to the person who was in an accident, for example. How will this effect them?

SENATOR FREESE: Well, they would certainly fair better than they would if the joint and several liability was eliminated entirely. Which it was years ago.

SENATOR NELSON: So, what you're telling me is that this bill is better than nothing?

SENATOR FREESE: No, I'm telling you that this is a good bill making insurance more affordable than available. You know the problem we're having with insurance rates and insurance availability. It's a real problem, not just in the State of New Hampshire, but in other states. We're concerned about it in New Hampshire and this will help in New Hampshire. I'm positive of that.

SENATOR CHANDLER: Senator Freese, did any representative of an insurance company testify that they would lower their rates if this bill passed?

SENATOR FREESE: I'm not sure, Senator Chandler, that I can say, with my hand on the Bible, if there was somebody there that guaranteed, come hell or high water, that they were going to lower their rates if this bill passed. But they did say that it would be helpful and that in all probability, it would have a positive effect on the rates.

SENATOR CHANDLER: In other words, this is somewhat wishful thinking?

SENATOR FREESE: There's no guarantees in life, you know, for either you or I.

SENATOR KRASKER: Senator Freese, may I ask what the vote was in your committee on the amendment.

SENATOR FREESE: I don't have the vote here, but I think it was either four to one or five to zero, no it was four to three.

AMENDMENT TO HB 1200

Amend the bill by replacing all after the enacting clause with the following:

1 Joint and Several Liability. RSA 507:7-e, I(b) is repealed and reenacted to read as follows:

(b) Enter judgment severally against each party liable on the basis of the rules of joint and severable liability, except that if any party shall be less than 50 percent at fault, then that party's liability shall be several and not joint and he shall be liable only for the damages attributable to him.

2 New Subparagraph; Basis for Judgment. Amend RSA 507:7-e, I by inserting after subparagraph (b) the following new subparagraph:

(c) RSA 507:7-e, I(b) notwithstanding in all cases where parties are found to have knowingly pursued or taken active part in a common plan or design resulting in the harm, grant judgment against all such parties on the basis of the rules of joint and several liability.

3 Apportionment of Damages. Amend RSA 507:7-e, III to read as follows:

III. For purposes of contribution under RSA 507:7-f and RSA 507:7-g, the court shall also determine each defendant's proportionate share of the obligation to each claimant in accordance with the verdict and subject to any reduction under RSA 507:7-i. Upon motion filed not later than 60 days after final judgment is entered, the court shall determine whether all or part of a defendant's proportionate share of the obligation is uncollectible from that defendant and shall reallocate any uncollectible amount among the other defendants jointly liable and the claimant at fault, according to their [proportionate shares] relative percentages of fault. The party whose liability is reallocated is nonetheless subject to contribution and to any continuing liability to the claimant on the judgment.

4 New Paragraph; Pollution Liability. Amend RSA 507:7-e by inserting after paragraph III the following new paragraph:

IV. Nothing contained in this section shall be construed to modify or limit the duties, responsibilities, or liabilities of any party for pollutant containment, clean-up, removal or restoration as established under state public health or environmental statutes including, but not limited to, RSA 147-A and RSA 147-B.

5 Applicability. This act shall apply to all causes of action arising on or after January 1, 1989.

6 Effective Date. This act shall take effect January 1, 1989.

AMENDED ANALYSIS

This bill, as amended, states that the rules of joint and several liability shall be applied by a court in assessing damages, except that where any party is less than 50 percent at fault his liability shall be several and he shall be liable only for damages attributable to him. This bill retains joint and several liability where parties are found to have knowingly pursued or taken active part in a common plan or design resulting in the harm.

This bill also clarifies that the limitation on joint liability shall not apply in cases involving pollution incidents where, by statute, a joint liability standard is to be applied.

This bill also requires an uncollectible share to be reallocated among other defendants who are jointly liable, and the claimant at fault.

Amendment adopted. Ordered to Third Reading.

Recess.

Out of Recess.

Senator Bartlett in Chair.

HB 674-FN, relative to accidental disability benefits for New Hampshire retirement system members. Ought to Pass with Amendment. Senator Bond for the Committee.

SENATOR BOND: This bill places repeated trauma in the group I and group II retirement sections of the law. It brings into line with the workmen's comp. law and it would have to go through that before he could collect his retirement under this section, as it stands now. Examples of repeated trauma or gradual degeneration are carpal tunnel syndrome, experienced by carpenters; asbestosis and so forth.

The amendment, which you will find on page five of the calendar, addresses the retirement benefits of the seven constitutional people, including the clerks, the treasurer and the secretary of state and

adapts the legislation, which we passed in 1985, for their retirement plan so that the reduced benefit for early retirement formula is the same as that for the group I people that we voted in the last session.

SENATOR WHITE: Senator Bond, is this yet another perk that we're giving to those seven people?

SENATOR BOND: Senator White, I would say that this was a refinement of the perks which we gave to seven people in 1985.

AMENDMENT TO HB 674-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to accidental disability benefits for New Hampshire retirement system members and to retirement benefits for certain legislative and constitutional officers.

Amend the bill by replacing section 4 with the following:

4 New Paragraph; Reduced Service Retirement Allowance; Certain Legislative and Constitutional Officers. Amend RSA 14:27-c by inserting after paragraph V the following new paragraph:

V-a. In order to be consistent with the retirement benefits outlined in paragraph I, RSA 100-A:5, I(c) shall be applicable at the express option of any person eligible for retirement benefits under this section, except that, for the years of creditable service in the formula for the monthly reduction of vested deferred retirement benefits, the creditable years of service shall be applied on a pro-rated basis according to the formula of creditable years of service and vested benefits in RSA 14:27-c, I as a ratio to those in RSA 100-A:5, I(b).

5 Effective Date. This act shall take effective 60 days after its passage.

AMENDED ANALYSIS

As amended, this bill adds an additional provision to accidental disability retirement allowances for group I and group II members of the New Hampshire retirement system. The bill provides that such allowances are available to group I and group II members who become totally and permanently incapacitated for duty as the natural and proximate result of repeated trauma or gradual degeneration

occurring while in the actual performance of duty, or arising out of and in the course of employment or of any occupational disease arising out of or in the course of employment as defined by RSA 281:2, V and found to be compensable by the commissioner of labor. Current law only deals with total and permanent incapacitation resulting from an accident occurring at some definite time and place.

The bill, as amended, makes certain legislative and constitutional officers eligible for early retirement with reduced service retirement allowances.

Amendment adopted. Ordered to Third Reading.

HB 1202-FN, requiring additional reports to be filed with the insurance commissioner. Ought to Pass with Amendment. Senator Freese for the Committee.

SENATOR FREESE: This was a continued hearing on this bill. We listened to two sessions several hours long. During the study by the Tort Reform committee previous to that, it was felt that, wrongly or rightly, the insurance companies were not as forthcoming with information as they could have been or should have been.

The amendment deals with the specific form that is part of a model legislation from the National Insurance Commission Association. We have asked that, in this amendment, that the insurance commissioner adopt its reporting form and modify it to the extent that a line is added for the New Hampshire experience. The bill itself attempts to design a form through legislation, which will be used to obtain more information from insurance companies doing the business in New Hampshire. This is a compromise from the original bill. With the amendment, Commissioner Bergeron must make a report to the Governor, the President of the Senate and the Speaker of the House, to the effect that he has adopted this form and that the insurance companies are using it and that the information is coming in, all before January 1, 1989. If the commissioner has not adopted the form or if the insurance companies are not providing the information by this time frame, the original HB 1202, as it came to the Senate, will go into effect. We think this is a good compromise and the committee supports the ought to pass with amendment. I do have a floor amendment that I'd like to be recognized for, if and when this vote is taken.

SENATOR NELSON: Senator Freese, the analysis says that if the commissioner fails to adopt this at the beginning of 1990 and, the bill says 1989. I was just curious about the date?

SENATOR FREESE: I am not aware of an error. It's on or before 1989.

SENATOR JOHNSON: Senator Freese, in the past, it seemed to be alleged that New Hampshire ratepayers were paying a high premium as opposed to the claims that were being made against various policies. But, we were not able to really prove that one way or the other because the information wasn't available to do that. Will the passage of this bill open up that question to the kind of analysis that we would need to determine if, indeed, New Hampshire ratepayers were paying excessive premiums?

SENATOR FREESE: It's likely that it would. I'm not sure that question was particularly asked or answered during the hearing process, but that was one of the thrusts with regard to additional information, that the New Hampshire rate experience be available so that we could tell what was going on in regards to the integration of the rates when it averaged with the rest of the country. So, we need that separately, so that we can tell what it is. I'm not sure that it would be worked into the rates until some different legislation passed. But, at least we'll know from the reports; it will help us in the legislature to further our desire in regards to tort reform and trying to keep the rates available.

SENATOR JOHNSON: What really then is the specific purpose of HB 1202?

SENATOR FREESE: It is so we get better information, more accurate information for the legislature and for us to act in the consumers interest.

AMENDMENT TO HB 1202-FN

Amend the title of the bill by replacing it with the following:

AN ACT

requiring the insurance commissioner to adopt a model report
and requiring additional reports and additional
reports to be filed with the
insurance commissioner.

Amend the bill by replacing section 4 with the following:

4 Commissioner Required to Adopt Model Report. The insurance commissioner is hereby directed to adopt and implement the model National Association of Insurance Commissioners' "Financial and

Statistical Data Report by Property and Casualty Insurance Companies". The commissioner shall adapt this report to include actual New Hampshire loss experience in various lines of liability insurance. The commissioner shall adopt and implement this report and certify to the senate president, the speaker of the house and the governor and council that he has adopted and implemented his report before January 1, 1989.

5 Contingency. If the commissioner adopts and implements the model report as required by section 4 of this act before January 1, 1989, sections 1-3 of this act shall not take effect.

6 Effective Date.

I. Sections 4 and 5 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect January 1, 1989.

AMENDED ANALYSIS

This bill, as amended, requires the insurance commissioner to adopt, adapt and implement the model report entitled National Association of Insurance Commissioners' "Financial and Statistical Data Report by Property and Casualty Insurance Companies" before January 1, 1989.

If the commissioner fails to adopt and implement such report, insurance companies will be required to provide the insurance commissioner with detailed reports on all lines of liability insurance, beginning on March 1, 1990.

Amendment adopted.

Senator Freese offered a floor amendment.

SENATOR FREESE: This was a typographical error in the bill before you. The floor amendment before you amends the title of the bill by replacing it with the following; requiring the insurance commissioner to adopt a model report and requiring additional reports to be filed with the insurance commissioner. If you want to check and see what the difference is, just look on the amendment and the act has a repetition of three words and this corrects it.

Floor Amendment to HB 1202-FN

. Amend the title of the bill by replacing it with the following:

AN ACT

requiring the insurance commissioner to adopt a model report
and requiring additional reports to be filed
with the insurance commissioner.

Floor amendment adopted. Ordered to Third Reading.

Recess

Out of Recess

Senator Preston in Chair

HB 1204-FN-A, establishing a grant-in-aid program to be administered by the division of mental health and developmental services, department of health and human services, to provide temporary emergency shelter for the destitute and making an appropriation therefor, and establishing the affordable housing fund within the New Hampshire housing finance authority and making an appropriation therefor. Ought to Pass with Amendment. Senator Bartlett for the Committee.

SENATOR BARTLETT: HB 1204-FN-A is a combination of HB 617, affordable housing, HB 1204, which was homeless and affordable housing, and HB 1205, which is the grants for single family units. The reason that these three are combined; one, was the House realized that they had not addressed 617 in the appropriate time to have it meet the deadlines in joint rules, so they combined 617 and 1204. The House still has 1205 and the Senate Internal Affairs, dealing with these bills, felt that it was most important that the Senate have a hearing on all three aspects of the bill and we heard basically 1204, which had 617 and 1204. We added a slight revision to 1205 and Internal Affairs then came up with the House bill as amended by the Senate, I hope, with the amendments in the calendar.

Basically, what this does, it allows money for affordable housing, which we hope will be the retaining of multifamily units in the marketplace. The bill calls for two million dollars in 1989 and two million in 1990 to be bonded to pay for interest payments for those who wish to purchase multifamily units and keep them in the marketplace. The two million dollars will be paid for interest; it would look like the interest repayment would be starting back to the revolving fund of the two million dollars or the four million dollars total, about the sixth or seventh year into the program. This would allow us to retain multifamily and rental units. The House version just called for non-profit, we included for profit in there with a 6% profit margin on the

investment income. We felt that, certainly, we should not do away in this country anyone who's in the profit motive business if they can accomplish the needs.

The second portion of the bill dealt with the homeless. That calls for three million dollars worth of matching grants to be administered by the department of health and human services. This will be going down to Finance; we don't assume there's enough money to match the three million dollars. It looks like maybe Finance will come somewhere near a million or less, which is matching grants. There are programs out there; we will not have to reinvent the wheel. On the multifamily units, that will be administrated by New Hampshire Housing Authority and that again is an existing vehicle so we don't have to start a whole new program and a whole new agency.

1205 is State grants for low and moderate income, where they have less 30% or less of their income for housing. The grants will be \$10,000 maximum. The interest payments will be described and determined by the amount of income by the individuals and, this will allow low income people or people who do not have down payments and up to \$10,000 will go for the down payments, so that we can allow people who have income to support homes, but don't have the down payment. This, again, will be paid back with an interest rate to be determined by the New Hampshire Housing Authority, probably starting in the second year. There is a provision in there for profit sharing of the properties, repayment of the loan and repayment of the interest in total when the property is sold, if it is sold before it is paid in other manners. We think this is a compromise; we've talked to many people in the House and we feel that this will start to address the needs for retaining multifamily units to aid those who'd like to get into single family homes and will help the homeless. We don't say that this is going to cure everything, but this will be a start. If these programs work well by the using of the New Hampshire Housing Authority and the department of public health and human services, then maybe we've got a start to solving some of the problems. If we can solve some of these problems, maybe our welfare expenses will diminish. I'd be happy to try to answer any questions regarding the legislation.

SENATOR JOHNSON: In regards to the multifamily housing, do I understand the thrust of this bill to be that if I owned a multifamily house, building, now or were to buy one and it needed updating or renovation, instead of me going to my bank and getting a loan to accomplish that, would I come and access this bonded fund that you referred to?

SENATOR BARTLETT: I knew in life that I would never have all the answers! That never was brought up in committee. I think it is a possibility. What was brought up in the committee, both in the House and the Senate, was the fear that these properties, the section eight, were going out and that there would be no nonprofit people to buy them and they would be sold into condominiums. So, the basic thrust of this is for someone else, a nonprofit organization, to purchase existing rental units so they're not put into condos or they're not taken out of the marketplace and so that we don't reduce the number of rental units in the State. One of the provisions was that if you were to buy an existing multifamily, under the New Hampshire Housing Authority, you would have to include sufficient monies in that purchase price or the loan to bring the property up to code so that we don't continue what we easily call the slum or something like that. You bring the property up to code so that we'd improve the neighborhood and improve the premise in which people lived in.

SENATOR JOHNSON: So then, the people or the buyers of this multifamily housing would be organizations as opposed to private individuals?

SENATOR BARTLETT: When it came from the House, it was only going to be nonprofit organizations. The Senate added in the provision for profit and in a housing multi unit, that 50% would have to be low and moderate income, the other 50 could be above that. What we're talking about is only the interest coverage, so that the property must stand upon its own from rental income for the principal payments up to the year six or seven. New Hampshire is not large enough to get into the subsidizing of housing. You saw what happened to the federal government subsidizing. The question was, also, why do we limit it to 50% of low and moderate income? Why don't we do the whole project? The project has got to be viable, so what happens that the New Hampshire Housing Authority determines the rent that can be paid by the individuals low and moderate and that might be \$400, but those people in the other 50% might be paying \$600 or \$700 for the same property and they would help make the thing a viable project.

SENATOR WHITE: Senator Bartlett, about how many units do you think this will involve?

SENATOR BARTLETT: Are we talking the rental units or single family housing?

SENATOR WHITE: How many rental units do you think we might get and how many single family houses do you think we might get?

SENATOR BARTLETT: With the two million dollars, with the two and two, it looks like we might get somewhere between six and eight hundred units that we could retain. On the single family, at the maximum with a half a million the maximum loan is \$10,000, that would be if they received the maximum, that would be what, fifty units. The thing about this which is good is a revolving fund. We shouldn't be coming back year after year to try and replenish it so, the money goes back into it, the profit goes back, and the cost of supervision or administration out of New Hampshire Housing Authority doesn't do the usual governmental thing where we spend more money on commissions and administrations than we do on the program.

SENATOR WHITE: Good. If someone holds their property for ten years or more, do they get the benefit from the sale?

SENATOR BARTLETT: When we do this, there was a profit sharing basis here. If you hold it, we plan to amend it down in Senate Finance. The first three years we share 50/50 of the profit of the property. You pay back the loan, you pay back the interest and then if there's a profit, 50 goes back to the fund and 50 goes to the individual. Over three years, 75% goes to the individual, 25% goes back to the revolving fund because they maintained the property and kept it up.

SENATOR JOHNSON: (tape change) to access this fund for the purpose of preserving their rental property?

SENATOR BARTLETT: This did not specifically address mobile home parks. This would allow tenants in a multi unit complex to form a corporation similar to legislation that we passed a year or so ago that would allow mobile home parks. As you're probably aware, the New Hampshire Housing Authority loaned about three million dollars to a park that was going to go out of existence under the corporate measures. I think that that part is in place now, I think this would allow, if there was a 20 unit apartment house and the tenants got together and form an association, they could buy it and they could do this by forming a coop.

AMENDMENT TO HB 1204-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a grant-in-aid program to provide temporary emergency shelter for the destitute, establishing the affordable housing fund, and establishing a low and moderate income housing loan program, and making appropriations therefor.

Amend RSA 126-A:43-h, II as inserted by section 1 of the bill by replacing it with the following:

II. The commission shall consist of 7 members and shall be composed as follows: 2 representatives or their designees appointed by the speaker of the house of representatives; 2 senators or their designees appointed by the president of the senate; the commissioner of health and human services, department of health and human services, or designee; one member from business and industry, appointed by the governor and council; and one public member appointed by the governor and council.

Amend the bill by replacing paragraph III-IV of section 4 with the following:

III. The existing shortage in the state of decent and affordable housing for low income persons is inimical to the safety, health, and welfare of all of the residents of the state and inhibits sound growth of its communities and the continuation of a viable economy and enviable business environment. The benefits enjoyed by New Hampshire's consistent economic growth are being adversely affected by a labor force which is finding it increasingly difficult to secure decent housing.

IV. In view of the necessarily high costs in this state of constructing and maintaining decent housing, even of the most modest design and appointments, this housing emergency cannot be met by the private sector nor by municipal or regional housing agencies without public participation.

V. It is therefore necessary that a recyclable fund be created which can maximize private investment primarily for the preservation, maintenance, conversion, or construction of a stock of affordable housing, in either multi-family or single family units, so as to minimize the need for future public subsidies.

Amend RSA 204-C:56, II as inserted by section 5 of the bill by inserting after subparagraph (g) the following new subparagraph:

(h) For-profit partnerships, corporations, proprietorships, or joint venture enterprises and all other business organizations.

Amend RSA 204-C:57 as inserted by section 5 of the bill be replacing it with the following:

204-C:57 Fund Established.

I. There is hereby established within the authority an affordable housing fund. All revenues collected from the sources described in RSA 204-C:59 or from government appropriations or grants shall be credited to the fund, but such revenues shall not be deemed to be money received on account of the state, and nothing in this subdivision shall be understood as pledging the faith and credit of the state. Such funds shall be used by the authority to facilitate the purchase and rehabilitation or construction of affordable housing primarily for low and moderate income persons and families, as provided in paragraph II, and for pre-construction technical assistance to entities which undertake such efforts.

II. The authority shall enter into contracts for grants and loans with eligible applicants according to standards and rules that the authority shall adopt and publish, provided that in entering into contracts pursuant to this section, the authority shall give priority to the affordable housing projects which meet one or more of the following criteria:

(a) Projects containing the highest percentage of housing units which are affordable to low income people;

(b) Projects containing the longest commitment to low-income people;

(c) Limited equity cooperatives, including, but not limited to, manufactured housing parks and apartment buildings, in which the majority of members are of low or moderate income;

(d) Projects containing the maximum number of units for low or moderate income families with children; and

(e) Projects which shall preserve the existing stock of low and moderate income housing.

No application from an eligible applicant shall be rejected solely or primarily because a greater level of assistance will be required to make the proposal feasible due to market conditions prevailing in the geographical area as opposed to other areas of the state.

III. In granting assistance pursuant to paragraph II, the authority shall make all reasonable efforts to assure that all geographic areas from which there are proposals satisfying the criteria of paragraph II shall receive assistance.

IV. The authority shall not provide financial assistance under this subdivision to any project in which more than 50 percent of the units will not be affordable to persons of low or moderate income.

V. Prior to granting any assistance pursuant to RSA 204-C:57, II, the authority shall hold a public hearing in the community in which the proposed project is to be located and shall find with respect to each such commitment:

(a) That there exists a shortage of decent, safe and sanitary housing available at costs which low or moderate income persons can afford within the general housing market area, as determined by the authority;

(b) That without the assistance contemplated by such commitment, private enterprise cannot supply such housing in such general housing area market area at rentals or carrying charges which low or moderate income persons can afford without the expenditure of more than 30 percent of their income; and

(c) That the assistance contemplated shall preserve or increase the supply of decent, safe and sanitary housing for low or moderate income persons and shall be of public use and provide a public benefit.

VI. Loans made from the fund shall be for periods and terms to be determined by the authority. Such loans may include, but shall not be limited to:

(a) Long-term mortgage loans to finance the total cost of a project or to supplement other available financing; and

(b) Short-term loans to supplement use of other funds, including tax-exempt bond proceeds.

Amend section 5 of the bill by inserting after RSA 204-C:61 the following new section:

204-C:62 Rulemaking. The authority shall, under RSA 204-C:53, adopt rules governing the affordable housing fund. Such rules shall include, but shall not be limited to:

I. Eligibility requirements for applicants.

II. Criteria for eligible projects, including, but not limited to, construction and quality standards.

III. Procedures for monitoring the implementation and management of projects.

IV. Reasonable fees to offset the cost of monitoring the operation of projects funded under this subdivision.

V. Requirements for long-term affordability of housing units in projects financed under this subdivision. Such requirements shall ensure that, at a minimum, at least 50 percent of the units in a pro-

ject shall remain affordable to low and moderate income persons for the period of any loan or 20 years, whichever is longer.

VI. Requirements regarding rents and fees which may be charged for housing units funded under this subdivision.

VII. Restrictions on the ability of loan recipients to convert housing units constructed under this subdivision to uses other than those permitted by this subdivision and provisions for financial penalties and equity sharing if such conversion occurs.

VIII. Any other matter necessary for the administration of this subdivision.

Amend the bill by replacing all after section 5 with the following:

6 Findings. Amend RSA 204-C:20, I to read as follows:

I. That, with respect to rental multi-family housing, eligible elderly and low income [person] persons and families can afford the adjusted rental or carrying charges set for a reasonable number, as determined by the authority, but in no event fewer than 1/8 of the units in the housing, to be financed pursuant to such commitment without the expenditure of more than [25] 30 percent of their annual income for basic shelter cost, including the additional cost, if any, of heat, hot water, and other utilities, except telephone; provided, however, that, if necessary to make the project financially feasible, such percentage of annual income may be increased to 32 percent; and provided further that, if, in order to meet federal requirements or to obtain federal assistance, a different percentage of annual income shall be required, then such percentage of annual income shall be increased, or based on the federal requirement, if applicable.

7 Appropriation. The sum of \$4,000,000 is hereby appropriated for the fiscal year ending June 30, 1989, to the housing finance authority for the purposes of section 5 of this act. This appropriation shall be nonlapsing. Allocation of these funds shall be made in 2 installments. Upon the effective date of this act, the housing finance authority shall receive \$2,000,000 of the appropriation. When the housing finance authority determines that this amount has been expended or committed to uses authorized under section 5 of this act, it shall request that the governor and council release an additional \$2,000,000. If the housing finance authority determines that any amount of the funds appropriated under this section are not necessary for the purposes of section 5 of this act, the authority may, with the approval of the governor and council, use such funds for any public purpose consistent with RSA 204-C.

8 Bonds Authorized. To provide funds for the appropriation made in section 7 of this act, the state treasurer is hereby authorized to

borrow upon the credit of the state not exceeding the sum of \$4,000,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest of the bonds and notes shall be made from the general funds of the state.

9 Repeal. RSA 204-C:13, relative to lending institutions and purchase of mortgage loans for single family housing, is repealed.

10 New Subdivision; Low and Moderate Income Housing Loan Program. Amend RSA 204-C by inserting after section 62 the following new subdivision:

Low and Moderate Income Housing Loan Program

204-C:63 Purpose. The purpose of this subdivision is to assist low and moderate income persons and families to purchase housing.

204-C:64 Program Established. There is hereby established a low and moderate income housing loan program to be administered by the New Hampshire housing finance authority which shall make low interest loans in amounts not to exceed \$10,000 to low and moderate income persons for the purpose of down payments on single family homes. For purposes of this section, "low and moderate income persons" shall mean individuals and families whose gross annual income is equal to or less than 100 percent of the median income of the geographic area in which they reside as determined by the authority.

204-C:65 Loans for Down Payments; Priority.

I. Such funds as the general court may specifically appropriate from time to time to the authority may be loaned to eligible low and moderate income persons or families for the purpose of making down payments on single family homes. Such loans shall not be in excess of \$10,000 to any individual and shall be repaid at interest rates determined by the authority, provided that such interest rates shall not exceed the New York prime interest rate. The appropriations made for purposes of this section and loan repayments, including interest, together with any funds which the authority may allocate from time to time to this program, shall constitute a continuing revolving loan fund. The state's and the authority's interest in such property shall be protected by a lien or in such other manner as is acceptable to the authority. The authority shall require the applicant to invest personal funds, to the extent available, to ensure the applicant's commitment to the property purchased.

II. Loans under this subdivision shall be targeted toward those persons having the least amount of income and assets.

III. Any applicant who receives a loan under this subdivision shall submit a copy of his federal income tax return each year during the life of the loan. In the event that any applicant experiences a substantial increase in his assets, he shall, notwithstanding the interest rate established under RSA 204-C:65, I, be subject to a sliding scale interest rate to be determined under rules adopted by the authority.

204-C:66 Sale of Property. The authority and the low or moderate income person shall enter into a contract providing that if the property is sold, the loan provided under this program shall be immediately due and payable. The authority shall determine the profit made from the sale, if any. If the property is sold within 3 years of the transfer of the deed, 75 percent of the profit shall be distributed to the authority and 25 percent to the low or moderate income person. If the property is sold 3 years or more from the transfer of the deed, 50 percent of the profit shall be distributed to the authority and 50 percent to the low or moderate income person.

204-C:67 Public Benefit. The authority shall review each request for assistance under this subdivision to objectively determine whether such request is primarily for a public purpose and benefit in accordance with RSA 204-C:20.

204-C:68 Rulemaking. The authority shall adopt rules in accordance with RSA 204-C:53, relative to:

- I. Criteria for eligibility for loans made under this subdivision.
- II. Application procedures for such loans.
- III. Interest rates, including sliding scale interest rates under RSA 204-C:65, III, and amount of loans.
- IV. Procedures for repayment of loans made under this subdivision, including but not limited to, delayed payments and balloon payments.
- V. Procedures for profit sharing.
- VI. Procedure for submission of federal income tax returns under RSA 204-C:65, III.
- VII. What constitutes a substantial increase in assets under RSA 204-C:65, III.
- VIII. Any other matter necessary to the administration of this subdivision.

204-C:69 Coordination with Other Programs. The authority shall establish procedures to ensure that the loan program established under this subdivision shall be coordinated with programs administered by the authority including but not limited to the other mortgage assistance programs administered by the authority.

11 Appropriation. The sum of \$500,000 is hereby appropriated to the New Hampshire housing finance authority for the fiscal year

ending June 30, 1989, for the purposes of section 10 of this act. This appropriation shall be nonlapsing. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

12 Effective Date. This act shall take effect July 1, 1988.

AMENDED ANALYSIS

This bill establishes an emergency shelter program for the purpose of making available additional emergency shelter facilities and maintaining them. Under this bill, the general court may specifically appropriate funds which are to be granted to private nonprofit organizations on an equal matching grant formula basis for use in renovating buildings for temporary emergency shelter facilities. These funds may also be used to provide additional beds, maintenance, and essential services for existing shelters.

The bill, as amended, establishes a commission to advise the director of the division of mental health and developmental services on matters relating to the emergency shelter program. The initial members of the commission shall consist of the current members of the task force on homelessness established by 1987,.

The bill appropriates \$3,000,000 for the biennium to the division of mental health and developmental services, department of health and human services, for the purposes of this program.

This bill establishes an affordable housing fund within the New Hampshire housing finance authority for the purpose of funding the development of housing for low and moderate income people. The fund will be administered by the New Hampshire housing finance authority, which will review applications, contracts, and policies for the fund. Moneys for the fund will come from developers' fees, repayments of loans from the fund, and donations. The bill appropriates \$4,000,000, which shall be received in 2 installments, to the housing financing authority for the fund, and authorizes the treasurer to issue bonds to provide these funds.

This bill, as amended, establishes a low and moderate income housing loan program to be administered by the New Hampshire housing finance authority which allows loans, not to exceed \$10,000, to be made to low and moderate income persons to be used for down payments on single family homes. Loans under this bill shall be given to those persons who have the least amount of income and assets. If the home is later sold, the loan shall become immediately due and payable. The bill also requires procedures for profit sharing.

The bill appropriates \$500,000 to the authority for the purposes of this program.

Amendment adopted. Referred to Finance (Rule #24)

Recess

Out of Recess

Senator Bartlett in Chair

HB 959, relative to the future energy supply needs of New Hampshire. Ought to Pass. Senator Bond for the Committee.

SENATOR BOND: HB 959 is a statement developed by the House Science, Technology and Energy committee. It urges all state agencies to encourage the future alliance of the State on hydroelectric energy produced in plants in northeastern North America, which means Quebec as well as the United States, power produced by small power producers in the State and the modernization and expansion of full load utility plants. The bill urges State agencies to examine least-cost alternatives when planning for future energy needs. Hydroelectric power sources should be primarily supported by a majority share of equity investment from United States investors, even if it is in Quebec or Canada, and should have a portion of their power production dedicated to provision of a electric power to consumers in the United States.

SENATOR KRASKER: Senator Bond, going down six lines, should the word "full load" be "base load"? Is that a correction that should be made in enrolled bills?

SENATOR BOND: Senator Krasker, I don't technically know the meaning of full load vs. base load is.

SENATOR KRASKER: Base load is a full load. That's why I asked.

SENATOR BOND: I will inquire whether that is a correction that should be made in enrolled bills. I don't think it has a critical impact on the intent of the bill.

SENATOR KRASKER: Just for my clarification; in the same line does modernization and expansion relate to existing plants?

SENATOR BOND: That is my understanding.

Adopted. Ordered to Third Reading.

HB 896, permitting a corporation to limit the liability of its directors in its articles of incorporation. Ought to Pass with Amendment. Senator Roberge for the Committee.

SENATOR ROBERGE: HB 896 would allow a New Hampshire corporation to limit the personal liability of its directors, if the corporation chooses to do so, the claims that the director has breached certain duties to the shareholders. If a corporation took advantage of what this bill would permit, its directors would not have to worry about lawsuits by shareholders in certain circumstances. A director would not be protected if his conduct constituted a breach of his duty of loyalty or good faith or if he acted for his own personal benefit or if he committed intentional misconduct. Speakers in favor of this bill, before Judiciary, indicated that many other states have enacted similar legislation. As they indicated, New Hampshire has traditionally been a favorable state in which to incorporate. This bill would help to maintain our State's position.

The amendment would create an even more welcome corporate environment for New Hampshire companies. This amendment would simply grant a New Hampshire corporation the power to limit the liabilities of its officers in addition to its directors. A few states have already done that, among them New Jersey, Virginia, Nevada and possibly others. Corporate officers fear the same type of shareholder suits as do directors. Without the amendment, a shareholder would simply sue the officers instead of the directors. This amendment closes that loophole by allowing a corporation to protect officers from the same types of suits which are now being brought against directors.

AMENDMENT TO HB 896

Amend the title of the bill by replacing it with the following:

AN ACT

permitting a corporation to limit the liability
of its directors and officers in its
articles of incorporation.

Amend RSA 293-A:54, I-a as inserted by section 1 of the bill by replacing it with the following:

I-a. (a) The articles of incorporation may contain a provision eliminating or limiting the personal liability of a director or an officer to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director or officer, except with respect to:

(1) Any breach of the director's or officer's duty of loyalty to the corporation or its shareholders;

(2) Acts or omissions which are not in good faith or which involve intentional misconduct or a knowing violation of law;

(3) Actions for which a director may be liable under RSA 293-A:48; or

(4) Any transaction from which the director or officer derived an improper personal benefit.

(b) This paragraph shall not be construed to eliminate or limit the liability of a director or an officer for any act or omission occurring prior to the effective date of this paragraph.

AMENDED ANALYSIS

This bill, as amended, permits corporations to include a provision in its articles of incorporation which would limit the liability of its directors or officers for certain breaches of fiduciary duty.

The bill provides that in certain situations the limited liability provision may not be utilized.

Amendment adopted. Ordered to Third Reading.

HB 845-FN, relative to the department of corrections, allowing psychologists to conduct examinations for purposes of nonemergency involuntary admissions, and making an appropriation to the Department of Corrections. Ought to Pass with Amendment. Senator Nelson for the Committee.

SENATOR NELSON: That title has been changed just to be relative to the department of corrections and making an appropriation to the department of corrections. This bill sets up the duties of the division of medical and psychiatric services in the reorganized department of corrections under RSA 21-H. It's simply going to allow the department to initiate guardianship procedures for persons in custody of the commission.

The second part of the bill repeals two sections which require the commissioner to submit an annual report because they are covered under a biannual report to Governor and Council. I would just like to note that the title of that bill is changed.

AMENDMENT TO HB 845-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the department of corrections, and making an appropriation to the department of corrections.

Amend the bill by replacing all after section 5 with the following:

6 Effective Date.

I. Section 5 of this act shall take effect July 1, 1988.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill sets out the duties of the division of medical and psychiatric services in the reorganized department of corrections under RSA 21-H. This bill allows the department of corrections to initiate guardianship proceedings for persons in the custody of the commissioner. The bill, as amended, appropriates \$18,200 to the department of corrections for the fiscal year ending June 30, 1989, to pay the costs of such guardianship proceedings.

This bill also repeals 2 RSA sections, which require the commissioner to submit an annual report on the department's expenses and management to the governor and to appoint appraisers to make an annual appraisal of the property at the state prison.

Amendment adopted. Referred to Finance (Rule #24)

HB 758-FN, establishing a committee to study the juvenile justice system and juvenile delinquency, and relative to the age of criminal responsibility. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: Basically what this does is it provides, in cases of crimes and that's just a few cases, that the age of immaturity is lowered to the age of 13. Those particular crimes are: first degree murder, second degree murder, manslaughter, kidnapping, and aggravated felonious assault. Now, this doesn't happen very often, but as you may recall in the Jason Elliott case that happened last fall, there was a juvenile that was convicted of a crime and he will be out of the YDC at the age of 18 with no parole and nothing will happen to him. All you have to do is look at the papers that we've had over the past years and the great increase in crime that is going on in the State of New Hampshire. Much, I feel, is due to the TV and the VCRs. There are several states that already have lower ages for

these specific crimes and there is quite a criteria that has to go through before the attorney general would seek this sort of change in his age of immaturity.

The amendment you will find on page six and, basically, all it does is change the study committee that is set up to study the juvenile justice system. We felt that it was too heavily weighted towards the enforcement segment and felt that we should have a little bit more of the juvenile justice side covered in that study committee. We would urge your support of the committee report of ought to pass as amended.

SENATOR HOUNSELL: Senator White, as you talked about the case that we are familiar with about the young fellow that was murdered and the young fellow that was convicted will be set free at the age of 18, you said that that will be it; there will be no record of it. Isn't it also true that it will be a violation of law if anyone was to disclose who this person was and that the public will never know who he was? It is just that he will be among us?

SENATOR WHITE: Absolutely.

SENATOR DISNARD: I rise as the co-sponsor of HB 758. I request the Senate to vote no on the amendment and I wish to speak to the proposed amendment. The amendment specifically discusses the make-up of the committee. I hope my reasons are easily understood. The first reason is it lowers the power of the Senate and the House. How does it lower the power of the Senate and the House? The original bill asks for two members from the Senate and two members from the House. I might add correspondence from the President of the State Senate agreed with that at the beginning.

Secondly, as you look on page seven of the calendar, you will notice ten, eleven, twelve and thirteen are new members of the committee as proposed by the Senate Judiciary committee. If you look at number thirteen, there already is a person in number seven from the Police Association. Number eleven, one member of the New Hampshire Psychiatric Society, appointed by that society. That society does not want a member. They indicated that they don't have the time nor do they have the staff or personnel and they would be just as happy to come in to a committee hearing and discuss their concerns. I also believe that if we have the school counselor, if somebody from that committee wants it beyond the committee, or the bar association, they could let their feelings be known to the Governor and

he would be able to appoint one of the four members. So, specifically, I'm concerned with lowering the thrust and power of the House and the Senate and I'm concerned with the additional members that could be handled on the committee's discussions when they meet. Once again, there will be two people from the Police Association and I don't think that's realistic.

SENATOR CHANDLER: Senator Disnard, I was following your testimony and if you will look at the amendment, you'll see that under number seven it's one member appointed by the New Hampshire Police Chiefs Association and, on number thirteen, it's one member by the New Hampshire Police Association. Do you realize that those are two different groups?

SENATOR DISNARD: Yes, sir. I can read as well as you can, Senator, but they are still from the Police Associations. They are still policemen.

SENATOR CHANDLER: One's a Chief of Police and the other's a police association.

SENATOR NELSON: I commend Senator Disnard for his work on the bill and as a co-sponsor of the bill, but, when it arrived in the committee, we as a committee held a public hearing. The committee is now not unanimous on this, I will tell you that directly. The reason we made some changes in the committee structure was that the committee was heavily weighted in favor of the law enforcement area — the attorney general, four judges, the New Hampshire Police Association, the sheriffs, the correction department. All we did was seek to put on that committee some people who are experts in juvenile education. The bill is, in fact, to study the juvenile system. Let's get some juvenile experts on there. As a result, we added a school guidance counselor, who is an expert in that field, and we added a psychiatrist, someone who is a doctor and experienced in children. That's the only reason for that amendment.

SENATOR JOHNSON: Senator Disnard, I'm looking under section five and then on to section six here. Under the duties of this committee is included, on line three, and the minimum age at which a person should be held criminally responsible for serious offenses. It's one of the duties assigned to this committee and then down in section six, we have, at the same time, established new ages for the age of criminal responsibility. Why would we establish these new ages and then at the same time ask a committee to study this issue?

SENATOR DISNARD: First of all, the history of the bill was a study. After the bill had gone through legislative services and printed, we had the recent murders and this wasn't added for that. I'd like to point out, if anyone isn't aware of it, this is just a booklet from last June of the juvenile cases, such as murders, rapes, within the state.

SENATOR JOHNSON: Senator White, should 13 year olds be held criminally responsible under this bill, where would they be incarcerated?

SENATOR WHITE: Well, that's a very good question, Senator. I think at this point we don't exactly know where, but we would hope that we would find a place for them that would be suitable to someone of their age. At the age of 18 they would then go into the prison system.

SENATOR JOHNSON: Is there anything that prevents a juvenile under this statute here or this provision from actually being incarcerated at the youth development center now and then upon the age of 18 being transferred to the state prison?

SENATOR WHITE: No, and I think that's what you would see; that's what I'm saying. I do not believe they would go to the state prison until they reached the age of 18.

AMENDMENT TO HB 758-FN

Amend the bill by replacing section 2 with the following:

2 Committee Established; Membership. There is established a committee to study the New Hampshire juvenile justice system. The committee membership shall be as follows:

I. Four members appointed by the governor.

II. Four members appointed by the chief justice of the supreme court of New Hampshire, who shall be justices of courts having jurisdiction over criminal matters, including at least one district court justice who has experience with juvenile justice matters.

III. The attorney general or his designee.

IV. One member of the house of representatives, or his designee, appointed by the speaker of the house.

V. One member of the senate, or his designee, appointed by the president of the senate.

VI. The commissioner of corrections or his designee.

VII. One member appointed by the New Hampshire Police Chiefs Association.

VIII. The director of the division for children and youth services or his designee.

IX. One member appointed from the New Hampshire Association of Counties.

X. One member of the New Hampshire Bar Association who has experience in juvenile justice and guardian ad litem matters, appointed by that association.

XI. One member of the New Hampshire Psychiatric Society, appointed by that society.

XII. One school guidance counselor who has experience in child and adolescent development and juvenile delinquency, appointed by the commissioner of education.

XIII. One member from the New Hampshire Police Association, appointed by that association.

Amendment adopted. Ordered to Third Reading.

ENROLLED BILLS AMENDMENT

HB 762-FN-A, making supplemental appropriations to the fish and game department.

SENATOR CHANDLER: This amendment corrects a transcription error in an appropriation figure in section 1 of the bill. It does not change the total amount appropriated.

Amend the bill by replacing line 12 of page 1 with the following:

30 Mobiles

92,000

Adopted.

COMMITTEE REPORTS

HB 991-FN, relative to dental benefits for persons receiving medical assistance. Interim Study. Senator Charbonneau for the Committee.

SENATOR CHARBONNEAU: Everyone on the committee agreed that this bill had merit. At the present time, about the only thing someone on medical assistance receives now is for the dental framework or an extraction. It would be to everyone's benefit, both the recipient and the state, if we did some more in the preventive area, rather than waiting until extraction is the only option. We did get a list of items from the division of human services as to specific services that could be provided and put in the bill to limit it. However, we

didn't get a price tag. Also, the dentists are for this bill, but there is no guarantee that they will keep their fees reasonable if we increase the number of things that can be done for someone on medical assistance. Basically, that is why we are asking for interim study. We would like to tighten the bill up, get a fee schedule put in place and really get a handle on the possible dollars we, as a state, may be required to spend. We all agree that this service is necessary. The question now is, how much is it going to cost and how much can the state afford to spend?

SENATOR MCLANE: I rise in strong opposition to the motion. It has been six years that the House committees, the child and family services committee on indigents and others, the women's lobby, have worked with this bill as their highest priority. This bill is now in the budget and I am sorry that the policy committee did not understand that, when something is in the budget, you can not spend over the budget. The price tag is \$425,000. That would be matched by similar federal funds and would apply to the 20,000 indigent and handicapped, the blind, the deaf, who now as adults receive no dental care except for extractions. If you have a toothache, they'll pull it, but they won't fill it. The committee was provided with a list of those items that would be covered. This bill is subject to appropriated funds and to rules adopted by the director. It is in Senate Finance now; it is about five items from where we are right now to discuss and it is my impression that this body should send that bill down to Senate Finance where that decision will have to be made. I'm under no illusions that this bill is going to survive the process. But to take it arbitrarily out of the process through misinformation is not fair to those people who have been working so hard for many years to make this a possibility. You can not spend more than the appropriation and it would not cover gold teeth, it would not cover braces for adults. All of those things have been answered and would be answered by the division. So, I urge you to vote down interim study. I plan to ask for a roll call because I'm reminded of the last roll call we had on the priorities for AFDC, when we discussed at the end of the session last time, the medicaid payments and all of those who voted against that bill, when the Governor had overridden it, no one has inquired about what has happened to medicaid for indigent people. This is something that a committee has studied and worked on and I ask for your indulgence to send it down to Finance where we already will be discussing it.

SENATOR BLAISDELL: There is nobody in this room that wants to take this bill, any more than I do, down to Senate Finance. I can't

do it. I've got to tell you, I can't do it. I've got bills down there right now that are just about breaking our hearts and that is coming from a liberal like me, I suppose. I don't know what I'm going to do. I don't have the money to do these things. Now I know what you mean, Senator White, it's tough and I hate to hurt people, but I can't, in all good conscience, ask this Senate to send it down to me because I have got enhanced housing, I've got Head Start, I've got everything else in front of us down there. We're going to be working until late this night. Susan, I know what you're saying, but I can't prolong it any more.

SENATOR MCLANE: Senator Blaisdell, when we have looked at the amount of money available and the amount of money that is before us, isn't it true that we have figured the entire supplemental budget into the amount of money we will be discussing? And isn't it true that the dental assistance for indigents and AFDC is in that amount of money, that twenty-five million dollars?

SENATOR BLAISDELL: I would say no, Senator, but if you want to ask that of Senator Hough, who's been taking care of this, he'll be very glad to answer it.

SENATOR MCLANE: It's number eleven on the list.

SENATOR BLAISDELL: I know which one you're talking about.

SENATOR HOUGH: Susan, you are proceeding on an assumption that the bill, as we received it from the House, is cast in concrete. There is a value in the second year of the biennium under the human service component that you are going to see, it will include \$425,000, but we haven't adopted that position and that's part of a total package that equals twenty-five million dollars which is twice in excess of what we know to be available. We're going to have to strike that position and you're going to have to come to grips with it as well as I am. This is a service that is presently not being able to be granted to these people, as desirable as it is. We're going to have to make these judgement calls this afternoon. We have not adopted that level that the House passed to us because it is not within available revenues. That is what the issue is.

SENATOR MCLANE: Are you saying, Senator Hough, that certain items that have been passed by the House and sent over to the Senate will not be discussed by Senate Finance because they do not wish to discuss them, even though you both profess that these are your priorities?

SENATOR HOUGH: I'm saying that the whole supplemental budget, as was started at nine o'clock this morning, will be discussed by Senate Finance and ultimately by this body. The assumption is that certain things in that twenty-five million dollar supplemental budget are faits accomplis and I'm saying no, everything is subject to review and further determination. As you well know, there are items that we are now adjusting and we can spend all afternoon here, Susan, but we ought to be down there working on the very things that you are trying to accomplish. Whether or not the House adopted a value in a supplemental budget that would allow for a program that hadn't been acted upon, is a moot point. The facts are that that spending factors are way in excess of available revenue, at this point.

SENATOR MCLANE: Are you saying that Senate Finance will not consider that section of the supplemental budget which includes dental care for certain indigent people?

SENATOR HOUGH: I'm saying that the Senate Finance committee will consider, review and see whatever is possible for every item in the supplemental budget. Obviously, we're not excluding anything, but I'm telling you there's a twenty-five million dollar supplemental appropriation that's twice in excess of what we're going to be able to come to grips with. That's simply what Senator Blaisdell is trying to tell you.

SENATOR WHITE: I rise in support of the committee report of interim study. I think there are times when we have difficult decisions to make and this is one of them. I commend both Senator Hough and Senator Blaisdell on understanding the problem of a balanced budget. I know what it is like being down in Finance. I certainly wouldn't want to burden them any more in these final hours of the session. I rise in support of the committee report.

SENATOR ST. JEAN: I, too, reluctantly rise in support of the committee report of interim study. Last year, of course, when we were going through our priorities, the much mentioned land trust came away with twenty million dollars. I think this is a good example of when push comes to shove, there's just no more money. But, it was so easy, when that was lobbied, to get that through. I tell you it would be awfully nice, Mr. Chairman, if we had twenty million dollars now down in Senate Finance, but that's not the way and we have to live with things that we do. I thought it was excessive at that time and I think with the business profits tax doing what it did and what

it has been doing, it is a little slow right now, I think we were a little overzealous in our support for the land trust.

SENATOR BLAISDELL: To go along with what Senator St. Jean is saying, of course, I was a sponsor of the land trust and I know what you're saying, Senator. I'd also like to have some of the money that's in the rainy day fund that we're going to put in now. Maybe that two million dollars would do it. But, Senator McLane, I say to you that we're going to be working tonight, we've got to get a budget out to these people in the Senate so that they can, tomorrow, look at what we've done. I figure that on Thursday, if we can all put this back in on the floor amendment, I'd be very happy to do it. If I can find the funds and you can find them and Finance can o.k. it, I'll be very glad to do it.

Senator McLane moved to lay HB 991-FN on the table.

Division vote:	12 Yeas	12 Nays
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Motion lost.

Question: Interim Study.

Adopted.

HB 740, establishing standards for marital mediators and relative to voluntary marital mediation in divorce proceedings. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: Basically, this bill is something they worked on over the years to try and come up with some sort of standards in regards to marital mediators. This is the outcome of it. It is putting in place what actually is happening today and the committee report was unanimously supported in the committee by five to nothing.

The amendment is on page 6 of your calendar. The amendment changes just one word; it changes a "shall" to a "should" in passing down some of the judgement. That's all the amendment does. The appointment of the board members required under this RSA should be no later than 60 days. We felt that, possibly, we might not get all the appointments to the board and shall would make it mandatory, so we changed that to should.

AMENDMENT TO HB 740

Amend RSA 458:15-a as inserted by section 2 of the bill by replacing it with the following:

2 New Section; Voluntary Marital Mediation. Amend RSA 458 by inserting after section 15 the following new section:

458:15-a Voluntary Marital Mediation. In any proceeding under this chapter, the court shall suspend proceedings if both parties state that voluntary marital mediation will be attempted in order to reach a mutually agreeable arrangement. In such instances the appointment of a guardian ad litem under RSA 458:17-a shall not be required until the parties have been unable to arrive at an agreement after marital mediation. In cases involving domestic violence as defined in RSA 173-B, marital mediation under this section is not appropriate. All marital mediators shall be certified pursuant to RSA 328-C. The parties shall directly contract with the private marital mediator and shall be responsible for payment of the fee for such marital mediation. If private marital mediation is selected, the parties or counsel, if any, shall sign and file with the court a written notice that private marital mediation shall take place. The notice shall include the name of the marital mediator and the date set for the first marital mediation session. Marital mediation proceedings shall be held in accordance with RSA 328-C and communications during such proceedings shall be privileged in accordance with RSA 328-C:9.

Amend the bill by replacing section 3 with the following:

3 Appointment of Board; Rules. Notwithstanding the effective date of section 1 of this act, the appointments of the board members required under RSA 328-C:4 should be made no later than 60 days after the effective date of this section, and the board shall adopt rules under RSA 328-C:8 so that the rules will be in effect no later than January 1, 1989.

AMENDED ANALYSIS

The bill, as amended, establishes a board of marital mediator certification authorized to certify the practice of marital mediation services in divorce cases by persons or programs in New Hampshire. The board is to consist of a superior court judge, a marital master, a licensed attorney, 2 public members, a mental health professional, and 3 marital mediators. The board is to set standards for the practice of marital mediation, certify individual marital mediators and marital mediation programs, and discipline violations of marital mediation standards. Marital mediators are required to be recertified every 3 years, and to attend continuing education programs annually.

The bill forbids courts from issuing subpoenas to require marital mediators to testify about information imparted during marital mediation, except in limited circumstances. This bill also creates a privilege of confidentiality for communications in marital mediation proceedings.

This bill requires the court to suspend proceedings under the domestic relations chapter when both parties state that voluntary marital mediation will be attempted in order to reach an agreement. The bill, as amended, states that marital mediation is not appropriate in cases involving domestic violence. The parties shall be responsible for payment of the marital mediator. All marital mediators must be certified and marital mediation proceedings shall be conducted in accordance with standards required by law and by rules adopted by the board of marital mediator certification.

Amendment adopted.

Senator Podles offered a floor amendment.

SENATOR PODLES: The amendment would just include the domestic violence of people. It says the court shall not allow or shall suspend marital mediation in cases involving domestic violence or child abuse or neglect unless the victim of the alleged domestic violence requests mediation and the mediator is made aware of such alleged domestic violence. That's all it says. It's just giving them an option. That's the floor amendment.

Floor Amendment to HB 740

Amend RSA 328-C:5, I as inserted by section 1 by replacing it with the following:

I. Have satisfactorily completed at least 40 hours of marital mediation training in a program approved by the board. The training shall reflect a recognition that, in marriages in which domestic violence, as defined in RSA 173-B, occurs, mediation is not in the victim's best interest.

Amend RSA 328-C:9, II as inserted by section 1 of the bill by replacing it with the following:

II. Nothing said by the parties during marital mediation sessions shall be admissible in further divorce proceedings.

Amend RSA 328-C:9, III(c) as inserted by section 1 of the bill by replacing it with the following:

(c) The marital mediator has received information alleging abuse or sexual abuse or neglect as defined by RSA 169-C or RSA 173-B.

Amend RSA 458:15-a as inserted by section 2 of the bill by replacing it with the following:

458:15-a Voluntary Marital Mediation. In any proceeding under this chapter, the court shall suspend proceedings if both parties state that voluntary marital mediation will be attempted in order to reach a mutually agreeable arrangement. In such instances the appointment of a guardian ad litem under RSA 458:17-a shall not be required until the parties have been unable to arrive at an agreement after marital mediation. All marital mediators shall be certified pursuant to RSA 328-C. The parties shall directly contract with the private marital mediator and shall be responsible for payment of the fee for such marital mediation. If private marital mediation is selected, the parties or counsel, if any, shall sign and file with the court a written notice that private marital mediation shall take place. The notice shall include the name of the marital mediator and the date set for the first marital mediation session. Marital mediation proceedings shall be held in accordance with RSA 328-C and communications during such proceedings shall be privileged in accordance with RSA 328-C:9. The court shall not allow or shall suspend marital mediation proceedings when it appears to either the court or the mediator, or when either party asserts that abuse as defined by RSA 169-C or RSA 173-B has occurred, unless the alleged victim under RSA 173-B requests mediation and the mediator is made aware of the alleged abuse.

AMENDED ANALYSIS

The bill, as amended, establishes a board of marital mediator certification authorized to certify the practice of marital mediation services in divorce cases by persons or programs in New Hampshire. The board is to consist of a superior court judge, a marital master, a licensed attorney, 2 public members, a mental health professional, and 3 marital mediators. The board is to set standards for the practice of marital mediation, certify individual marital mediators and marital mediation programs, and discipline violations of marital mediation standards. Marital mediators are required to be recertified every 3 years, and to attend continuing education programs annually.

The bill forbids courts from issuing subpoenas to require marital mediators to testify about information imparted during marital me-

diation, except in limited circumstances. This bill also creates a privilege of confidentiality for communications in marital mediation proceedings.

This bill requires the court to suspend proceedings under the domestic relations chapter when both parties state that voluntary marital mediation will be attempted in order to reach an agreement. The bill, as amended, states the court shall not allow or shall suspend marital mediation in cases involving domestic violence or child abuse or neglect, unless the victim of the alleged domestic violence requests mediation and the mediator is made aware of such alleged domestic violence. The parties shall be responsible for payment of the marital mediator. All marital mediators must be certified and marital mediation proceedings shall be conducted in accordance with standards required by law and by rules adopted by the board of marital mediator certification.

Floor amendment adopted. Ordered to Third Reading.

HB 237, limiting the civil liability of volunteers working on behalf of nonprofit organizations; establishing a special insurance compensation fund and a process to compensate persons with claims against volunteers. Ought to Pass with Amendment. Senator Roberge for the Committee.

SENATOR ROBERGE: HB 237, in the last couple of years, the subject of immunity for volunteers has generated significant interest in New Hampshire and other states. In just the last year or so, at least 30 states have enacted laws granting volunteers limited immunity from suit. As one volunteer representing the head of the Daniel Webster Council of the Boy Scouts noted, this nation is built on volunteerism and litigation is making it impossible to be a volunteer. Those people who dedicate their own time, not for profit, but to be of service to their communities, should be encouraged without the limited immunity which HB 237 provides. Volunteers are being discouraged from serving. They fear that they risk their personal assets in the event of a lawsuit against them or the organization that they serve. Legislation to protect our volunteers is long overdue. In December, the Tort Reform Commission recommended, in principle, legislation which would accomplish the objectives of HB 237, with committee amendments. The committee heard testimony from a number of volunteer organizations, among them the Federation of Women's Club, Arts 1000, the recreation director of Salem, the State Library, representatives of Little League Baseball and others. The committee amendments preserve the immunity provisions of the

original bill and take out the State fund portion. Specifically, the House version called for a dollar surcharge on all liability insurance policies to be put into a fund and administered by the board of claims to pay money to those who claim injury against volunteers. My understanding is that there is no state mechanism like that in the country. There was some support for the fund and a fair amount of opposition. We felt that it would be unworkable and that it might be unconstitutional. HB 237 is as narrowly drawn as it can be and still provide some meaningful protection to volunteers.

First of all, to be covered, a volunteer must be found to have acted in good faith and within the scope of his official functions and duties. A volunteer is not protected if his conduct was willful or grossly negligent. Second, in order to qualify as a volunteer, an individual may not receive compensation other than reimbursement for expenses. There is a further limitation on immunity which is very important. There is no immunity for an activity related to transportation or to the care of the organization's premises. In other words, if there's an automobile accident or if someone falls on slippery steps or if a building is not properly maintained there is no immunity for the volunteer. Furthermore, someone who claims injury can still proceed to sue the organization itself. This bill is urgently needed to encourage our citizens to continue to serve the worthy activities of volunteer organizations throughout our state so that they will be able to serve without fear of claims against them. This bill provides volunteers a limited protection. In view of their importance to our state, they are entitled to that protection.

SENATOR BOND: Senator Roberge, on page 5 of the bill, it says board of claim members shall receive \$30 per day plus expenses for hearing claims under paragraph four of this section. My question is two parts. The first part is, do you intend that the legislative members of the board of claims be compensated \$30 per day? In asking that I will explain that there are two members; one from the House and one from the Senate. I happen to be the Senate member at this time. The second part of the question is, do you think that in the conference process with the House it could be reviewed as to what the other, the nonlegislative members of the board, who happen to be attorneys are compensated because I think it's considerably in excess of \$30 a day?

SENATOR ROBERGE: Senator Bond, you will note on page 4 of the calendar, we amended out that portion that called for that particular fund. That all has to do with creating that liability fund and we removed it.

SENATOR BOND: It's completely eliminated?

SENATOR ROBERGE: We completely eliminated it, yes.

AMENDMENT TO HB 237-FN

Amend the title of the bill by replacing it with the following:

AN ACT

limiting the civil liability of volunteers working
on behalf of nonprofit organizations
and government entities.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Volunteers; Liability Limited. Amend RSA 508 by inserting after section 16 the following new section:

508:17 Volunteers; Liability Limited.

I. Any volunteer of a nonprofit organization or government entity shall be immune from civil liability in any action brought on the basis of any act or omission resulting in damage or injury to any person if:

(a) The volunteer had prior written approval from the organization to act on behalf of the organization; and

(b) The volunteer was acting in good faith and within the scope of his official functions and duties with the organization; and

(c) The damage or injury was not caused by willful, wanton, or grossly negligent misconduct by the volunteer.

II. Nothing in this section shall be construed to affect any civil action brought by any nonprofit organization against any volunteer of such organization.

III. Volunteer activity related to transportation or to care of the organization's premises shall be excepted from the provisions of paragraph I of this section.

IV. In this section:

(a) "Damage or injury" includes physical, nonphysical, economic and noneconomic damage.

(b) "Nonprofit organization" shall include, but not be limited, to a not for profit organization, corporation, community chest, fund or foundation organized and operated exclusively for religious, cultural, charitable, scientific, recreational, literary, agricultural, or educational purposes, or to foster amateur competition in a sport formally recognized by the National Collegiate Athletic Association,

and an organization exempt from taxation under section 501(c) of the Internal Revenue Code of 1986 organized or incorporated in this state or having a principal place of business in this state.

(c) "Volunteer" means an individual performing services for a nonprofit organization or government entity who does not receive compensation, other than reimbursement for expenses actually incurred for such services. In the case of volunteer athletic coaches or sports officials, such volunteers shall possess proper certification or validation of competence in the rules, procedures, practices, and programs of the athletic activity.

2 Effective Date. This act shall take effect July 1, 1988.

AMENDED ANALYSIS

This bill, as amended, provides that volunteers for nonprofit organizations and government entities shall be immune from civil liability for damage or injury resulting from their volunteer activities, under certain circumstances.

Amendment adopted.

Senator Roberge offered a floor amendment.

SENATOR ROBERGE: This floor amendment is a very short amendment, it covers, for instance, if a volunteer has insurance it would allow someone to collect on that insurance. If they are not insured, it would not allow them to collect and, in any event, it allows the person who may be injured to seek litigation on the organization itself.

Floor Amendment to HB 237-FN

Amend RSA 508:17, II as inserted by section 1 of the bill by replacing it with the following:

II. Immunity conferred by this section shall apply only to the extent that there is no applicable insurance coverage.

Floor amendment adopted. Ordered to Third Reading.

HB 935, relative to recording plats. Ought to Pass with Amendment. Senator Heath for the Committee.

SENATOR HEATH: This mandates that recorded plats be drawn up by certified surveyors. The amendment, which was drawn incorrectly that's in the calendar, exempts simple subdivisions of one lot

off the main property that has a straight line dividing it off of 100 feet or more. We had decided in committee that that should be 1,000 feet. It was inadvertently drawn wrong, so I will later have a floor amendment to put it back to the committee's version of a 1,000 feet.

Amendment failed.

Senator Heath offered a floor amendment.

SENATOR HEATH: You should have before you a floor amendment. It changes the 100 feet on the simple subdivision back to a 1,000 feet and that's all it does.

Floor Amendment to HB 935

Amend the bill by replacing sections 1, 2, and 3 with the following:

1 Recording Plats; Licensed Land Surveyor. Amend RSA 674:37 to read as follows:

674:37 Recording of Plats.

I. After the certificate or notice referred to in RSA 674:35, II and the regulations referred to in RSA 674:36 have been filed with the appropriate recording officials, no plat shall be filed or recorded unless it is prepared and certified by a licensed land surveyor, and until it has been approved by the planning board and such approval has been endorsed in writing on the plat in such manner as the planning board may designate, except as provided in RSA 676:18, II and III. The filing or recording of a plat of a subdivision without the requisite approval of the planning board, or which has not been prepared and certified by a licensed land surveyor, shall be void.

II. Notwithstanding the provisions of paragraph I, preparation and certification by a licensed land surveyor shall not be required for a plat or a plat of a subdivision if any of the property lines shown are straight lines no longer than 1,000 feet.

2 Register of Deeds; Recording Plats. Amend RSA 676:18, II to read as follows:

II.(a) Notwithstanding the provisions of paragraph I, the register of deeds shall accept for recording [any] a plat [bearing] prepared and certified by a licensed land surveyor if such plat bears a certificate by a [registered] licensed land surveyor that the property lines shown are the lines dividing existing ownerships and that the lines of streets and ways shown are those of public or private streets or ways already established and that no new lines for division of existing ownership or for new ways are shown. The recording of any such plat shall not relieve any owner from compliance with the provisions of this chapter.

(b) Notwithstanding the provisions of subparagraph (a), preparation and certification by a licensed land surveyor shall not be required for a plat if any of the property lines shown are straight lines no longer than 1,000 feet.

3 Register of Deeds; Duties. Amend RSA 478 by inserting after section 1 the following new section:

478:1-a Recording of Plats.

I. No register of deeds shall file or record a plat of a subdivision, or a plat prepared for the purpose of showing existing property lines, if such plat has not been prepared and certified by a licensed land surveyor, and any such filing or recording shall be void. For the purposes of this section the definition of the word "subdivision" shall be that contained in RSA 672:14.

II. Notwithstanding the provisions of paragraph I, a plat of a subdivision or a plat prepared for the purpose of showing existing property lines may be filed or recorded without preparation and certification by a licensed land surveyor if any of the property lines shown are straight lines no longer than 1,000 feet.

AMENDED ANALYSIS

As amended, this bill provides that no plat shall be filed or recorded in the registry of deeds unless it is prepared and certified by a licensed land surveyor.

Under this bill, as amended, no register of deeds shall file or record a plat of a subdivision, or a plat prepared for the purpose of showing existing property lines, if such plat has not been prepared and certified by a licensed land surveyor.

As amended, the bill does not require preparation and certification by a licensed land surveyor for filing or recording any plat if any of the property lines shown are straight lines no longer than 1,000 feet.

Floor amendment adopted. Ordered to Third Reading.

HB 821, legalizing certain town meetings and hearings. Ought to Pass with Amendment. Senator Pressly for the Committee.

SENATOR PRESSLY: This is the bill I told you to be expecting. This is the one where we took all of the towns that have made errors in their town procedures and have asked to have portions of it legalized. We've included the towns of Atkinson, Pembroke and New Ipswich. In each case, we approved this only the portion of the town meeting where they felt there was an error made.

The first section of the amendment would allow towns, I also mentioned to you in the past, that we've been trying to work on a proce-

ture so towns will take care of this and not have to come to the legislature. Thanks to the hard work of Senator Heath, who has really worked hard on this, we now have come up with a section that we hope will address that. It will be where it allows towns to call for their own special meeting to legalize their procedural defects. A public hearing on the procedural defect shall be held at least seven days before the meeting, no appropriation shall be made at any meeting called for this section. Such defects may be waived, cured and legalized by a two-thirds vote. By adopting this language, the towns can legalize their own defects without coming to the legislature. There are also some other amendments added on. Again, where towns have made errors and have respectfully requested that the portions be legalized, for the towns of Gilson, Henniker and Londonderry, having to do with their tax liens. The committee has spent a fair amount of time on this whole problem. We feel that we've looked at each error and feel fairly comfortable that the error was, in fact, a genuine, human procedural error. We have included language that, hopefully in the future, will not make this type of legislation possible, at least not as frequent as it has been in the past.

AMENDMENT TO HB 821

Amend the title of the bill by replacing it with the following:

AN ACT

legalizing certain town meetings and hearings and
relative to a statutory procedure for curing
legal defects in town meetings.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Legalizing Meetings. Amend RSA 31 by inserting after section 5-a the following new section:

31:5-b Legalization of Meetings.

I. Whenever the legislative body of a political subdivision has voted by the requisite majority to take any legal actions which are subsequently discovered to be procedurally defective because of failure to comply with statutory notice, vote, hearing or wording requirements, such defects may be waived, cured and legalized by a 2/3 vote of a regular or special meeting called for that purpose.

II. A public hearing on the procedural defect proposed to be cured shall be held at least 7 days before any meeting called for the purpose of curing a defect. No appropriations governed by RSA 31:5 shall be made at any meeting called under this section.

III. When any procedural defect has been cured under this section, actions of the voters shall be valid as if all statutorily required proceedings had been complied with.

2 Town of Pembroke. All actions, votes and proceedings of the Pembroke budget public hearing held by the budget committee on February 7, 1987, all actions, votes and proceedings of the Pembroke selectmen's hearing on bonds and notes, including the hearing on the town office building, held on February 23, 1987, and all actions, votes and proceedings of the town meeting of Pembroke held on March 10, 1987, March 21, 1987, and special meeting on September 12, 1987, relative to article 3 approving the bonding of \$350,000 for a new town hall are hereby legalized, ratified and confirmed.

3 Town of Gilsum. Those actions, votes, and proceedings of the Gilsum annual town meeting held on March 8, 1988, relative to article 7, the real estate tax lien procedure, are hereby legalized, ratified, and confirmed.

4 Town of Henniker. Those actions, votes, and proceedings of the Henniker annual town meeting held on March 8, 1988, relative to article 41, are hereby legalized, ratified, and confirmed.

5 Town of Londonderry. Those actions, votes, and proceedings of the Londonderry annual town meeting continued to March 11, 1988, relative to article 29, are hereby legalized, ratified, and confirmed.

6 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill legalizes certain town meetings and hearings.

As amended, the bill also permits municipalities to call a regular or special meeting to legalize any actions voted on by the legislative body which are found after the vote to be procedurally defective.

Amendment adopted.

Senator Johnson offered a floor amendment.

SENATOR JOHNSON: The floor amendment speaks to the real estate tax lien procedures that were not complied with in the entirety for the towns of Allenstown, Amherst and Milford. This amendment will legalize only those portions of those town meetings.

SENATOR HEATH: I rise in opposition to the amendment. The mistake that was made at these meetings was that the vote on prohibiting the selling of tax liens was not done by secret ballot. I think in this case that that's one of those things that peer pressure is going to count a great deal and that's why we have a secret ballot. There's

no emergency on this kind of thing. Nobody's bonding is in danger; the tax structure is not in danger; they can take this vote over and do it right. But this is the kind of thing that we have a secret ballot for. I wish that we hadn't legalized them on the prior bill. I certainly don't think we should go on to do this. It was clearly written in the law that it should be done, and that it can be done over at the next meeting, with no problem to the town and done in a fair way for those who might want to vote differently. But, in front of their neighbors they might vote differently if they have to do it visibly to their neighbors. I urge this body to turn this down since there is no emergency and these people can do it the correct way next time, and then, perhaps in the future, read what the law is and adhere to it.

SENATOR HOUNSELL: Senator, I want to ask you, in regards to the towns on the floor amendment, did they at any time appear before your committee so your committee could consider these matters?

SENATOR HEATH: They did not.

SENATOR HOUNSELL: Last year, I believe it was last year, that we put this in to effect of the way the tax liens could be conducted in the future?

SENATOR HEATH: That was last session.

SENATOR HOUNSELL: Didn't we have in there, the provision and the debate, on the necessity of the secret ballot and isn't that what you're really saying is that what we considered last year to have been done in secret should have been done in secret?

SENATOR HEATH: Interestingly enough, yes. But to further answer that question, they apparently read the law enough to know that they could ask the question. I don't understand how you can look up in a change in the state law and see that you can put that question before the people where you couldn't before, and not read the rest of the sentence and find out that it's a secret ballot. I think it was deliberate, or at least there's a suspicion that it was deliberately done. I would suggest where there's no emergency that we not do that for them, but allow them to do it the next time the right way and, perhaps, learn a lesson about reading law.

SENATOR WHITE: I rise in support of the floor amendment. I think it was an inadvertent oversight by the three towns that did this and they just found out at a recent town clerk's meeting that it

should have been done by ballot as opposed to being on the warrant. They did take a vote on the warrant article and the town of Milford called me and then mentioned it to the people in Amherst and wanted this amendment drafted. We had just passed the same identical thing for the town of Gilson on page 9 of the amendment. We ratified what they've done and, basically, we've also done that for Henniker and Londonderry. So, I feel by not doing it for these three towns, you're striking it out. It was important that we get this before the voters because of the outside people coming in and buying up property. We felt that it was important the towns retain control of the tax lien. It would be much less costly to the cities and towns if they were allowed this way of taking care of the tax liens. I would urge your support of the floor amendment.

SENATOR CHANDLER: Senator, I must not have been listening too carefully because I'm not sure, are you speaking against the committee amendment or the floor amendment?

SENATOR HEATH: I'm speaking against the floor amendment that's presently before us.

SENATOR HEATH: Senator White, could you tell me what the emergency is that these people can't do this the way the law specifies?

SENATOR WHITE: I don't necessarily say that it is an emergency, but the only emergency that I see is the possibility of the outside person coming in and purchasing the property and not allowing the town to take it. So, the town in essence loses that 18% and they lose control over the property which, I think, is better to have the town have. They have little more compassion for the homeowners than an outside person who's bought up the property. I think it's a people bill and we're protecting the homeowners in this particular piece of legislation.

SENATOR HEATH: Are you telling me you are protecting the homeowners of the majority or are you protecting the homeowners that didn't pay their tax and, letting those who did then hold the burden?

SENATOR WHITE: In essence actually, you're protecting both sides since they're getting an 18% return on their money which is much greater than what my town, for instance, is getting tax anticipation notes at 6%. So, they're getting returns at 18% so it would benefit the entire town.

SENATOR HEATH: Senator, if an outside investor came in and did his right for the one year until it could be done properly by the town through the secret ballot, as the law was passed, would it not yield the same amount in terms of what they had, taxpayers who paid their taxes on time, will get the 18%. Would it not be the same 18%?

SENATOR WHITE: No, because the person who buys the outside tax property they are the ones that get the 18%. If someone goes in and buys property at a tax sale, they receive the 18%, under this provision of the law.

SENATOR PRESSLY: As committee chair, I feel I should rise in support of the amendment and I'm certainly sympathetic to Senators Heath and Hounsell's positions. This has been debated at long lengths on the committee and we appreciate their point of view so much so that we now have within the main body of the bill, in the amendment that you've already passed, hopefully procedures so that towns will solve this in the future on their own. The error that was made by these three towns was made by about 25 other towns and it's only fair that since we have excused the others, that these also be excused. The House has taken care of some of the other towns on the House side, but we've been told that this happened a total of about 30 different towns. So, to leave three out would not be fair. I encourage you to include the three towns in the full motion.

SENATOR HOUNSELL: Very briefly, I just want to let Senator Johnson, Senator Roberge and Senator White know why I am not going to vote for this amendment. I don't have any reason to think that the town of Allenstown, Amherst and Milford didn't try at their very best at being in compliance with the law. However, the debate last year was that it would be by secret ballot and I remember the debate. The debate was that people do vote differently on these types of matters when the curtain is drawn behind them. We need to understand a few things about what we do here and one of the things that what we do is that when we make law, we stand by it. Now, if there's an error in the law that being that this shouldn't be secret ballot, then that's what the amendment should be. But, the law now stands that it's by secret ballot. I concur that there's no emergency out there. However, what we do is so important that we have to stand by our actions. I think that in the absence of an emergency that we should forego the passage of this.

SENATOR HEATH: Senator Hounsell, don't you think if this was important to those towns, that someone from those towns would have shown up and testified in favor of it?

SENATOR HOUNSELL: I think that probably that's so. It kind of came as a surprise to me that there's 30 other towns that we've done. I don't remember doing 30 other towns. But, I was at the hearing that you held on this one and I was involved and interested in your debate. I think the committee has done the responsible thing. Again, I don't base my vote thinking that these towns acted irresponsibly, even at the absence at the hearing. But, I'm basing my vote in that there is an absence of an emergency, and therefore, we should not forego the procedure that we put in place last year, which is the call for the secret ballot, something that I know that you believe, as I do, is a very special thing.

Floor Amendment to HB 821

Amend the effective date section of the bill by replacing it with the following and renumbering the bill sections as necessary:

Town of Allenstown. Those actions, votes, and proceedings of the Allenstown annual town meeting held on March 12, 1988, relative to article 13, are hereby legalized, ratified, and confirmed.

Town of Amherst. Those actions, votes, and proceedings of the Amherst annual town meeting held on March 8, 1988, including the real estate tax lien procedure, are hereby legalized, ratified, and confirmed.

Town of Milford. Those actions, votes, and proceedings of the Milford annual town meeting held on March 8, 1988, relative to article 22, the real estate tax lien procedure, are hereby legalized, ratified, and confirmed.

Effective Date. This act shall take effect upon its passage.

Senator Heath requested a division vote.

10 Yeas

6 Nays.

Floor amendment adopted. Ordered to Third Reading.

HB 783, relative to grandparents' visitation rights. Interim Study. Senator White for the Committee.

SENATOR WHITE: This really is a very good bill, but there were an awful lot of flaws in the bill that we felt needed to be corrected. They brought in several amendments to the committee which we all felt were worthwhile. When we executed the bill, we had the people from both sides and they felt that this is the first time around on this bill that they could come in with an agreed bill in the next session.

So, we felt that interim study was the best place for this bill. It will come back as a clean bill. We have problems with the grandparents of natural and unnatural children and it involved into quite a problem. So, we felt interim study was the best place.

SENATOR CHANDLER: Senator White, when the study is made would you possibly advocate that they would study also the rights of a great-grandparent to visit his child?

SENATOR WHITE: I think that's an excellent idea, Senator Chandler. How many do you have?

SENATOR CHANDLER: Seven.

Adopted.

HB 827-FN, relative to health screening for members of the general court. Ought to Pass. Senator White for the Committee.

SENATOR WHITE: When this particular RSA was passed many years ago, we were in a biennial session, which meant that we would have health screening once. It's very difficult to get the people to come up and do the health screening, so what we have done is to change it since, unfortunately, from a vote of the House we're going to be having annual sessions continue. So, what this bill allows is that the health screening will only be done once in any two year period. Basically, it'll save money and it will save time. It's a good bill and the committee report, ought to pass, was supported unanimously in committee

Adopted. Ordered to Third Reading.

HB 875-FN, establishing a committee to study employment conditions at human services care providers contracting with the state. Inexpedient to Legislate. Senator Krasker for the Committee.

SENATOR KRASKER: This bill would create a study committee to examine the difficulties experienced by human service care providers in hiring and keeping quality direct care staff. The committee listened to the testimony and does recognize that there is a very real problem of human service care providers in keeping of their staff. We recognize, as well, the essential roles they play in providing contract services with the state. However, it was the feeling of the committee that, while a study of employment conditions is worthwhile, it should rather be done privately or through other means, rather

than through the establishment of a legislative committee. It was just our feeling during the discussion that we are establishing so many committees, we just don't have time.

Adopted.

HB 880, relative to certification of water quality laboratories. Ought to Pass with Amendment. Senator Bond for the Committee.

SENATOR BOND: This bill authorizes the department of environmental services to establish certification standards for laboratories testing water samples for various matters. The bill also authorizes the department to certify laboratories upon request for the testing of water samples by aqua light on a category by category basis. The reason for this, presently they test on a aqua light basis. Massachusetts has requirements for category by category and for certain businesses in this state who do a large amount of their testing with Massachusetts water, they need to be certified on a category basis.

The amendment you'll find on page 16 and it is the part that provides for the category by category. We urge your support.

AMENDMENT TO HB 880

Amend RSA 148-B:4, II as inserted by section 1 of the bill by replacing it with the following:

II. The [division] department shall establish and administer a program to certify on an annual basis the facilities, techniques, collection procedures, testing methods, analytical performance, and qualifications of personnel of any laboratory for the purposes of RSA 148-B:4, I. The program shall be no less stringent than the United States Environmental Protection Agency's rules and regulations for the certification of drinking water laboratories. Certification shall be granted on an analyte-by-analyte basis [and] for all analytes with the exception of PCB's, pesticides, volatile organics, acids, and base/neutrals. Certification for these analytes shall be granted on a category-by-category basis, depending on the laboratory's ability to analyze, to a degree of certainty to be established by rule adopted by the department pursuant to RSA 541-A, the analytes in that category. Certification shall be based on the capability of the laboratory to analyze samples with precision and accuracy.

II-a. The department shall, upon request of a laboratory certified pursuant to paragraph II of this section, certify such laboratory

on a category-by-category basis for all analytes, provided that such laboratory demonstrates capability to analyze samples with precision and accuracy.

Amend section 4 of the bill by replacing it with the following:

4 New Paragraphs; Rulemaking; Certification for Certain Analytes; Certification for All Analytes. Amend RSA 148-B:4-b by inserting after paragraph XI the following new paragraphs:

XII. Criteria for certification of laboratories testing for PCB's, pesticides, volatile organics, acids, and base/neutrals on a category-by-category basis.

XIII. Criteria for certification of laboratories testing for all analytes on a category-by-category basis.

Amend section 9 of the bill by replacing it with the following:

9 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

The bill, as amended, authorizes the department of environmental services to establish certification standards for laboratories testing water samples for PCB's, pesticides, volatile organic chemicals, acids, and base/neutrals on a category-by-category basis. The bill also authorizes the department to certify laboratories, upon request, for the testing of water samples for all analytes on a category-by-category basis.

The bill, as amended, requires laboratories to notify the department in writing of certain changes affecting analysis performance. The bill also requires laboratories which have their certification revoked or suspended more than 3 times in 2 years to wait one year before being recertified, or to show good cause to the water supply and pollution control council for their recertification.

The bill also changes references from the division of water supply and pollution control to the department of environmental services, reflecting the commissioner's authority over the laboratory services unit.

This bill is a request of the department of environmental services.

Amendment adopted. Ordered to Third Reading.

HB 1147-FN, prohibiting persons who have been convicted of child pornography, felonious physical assault on a minor, or any sexual assault, from engaging in activities relating to the care of children. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: Basically, the bill prohibits people who have been convicted of child pornography from engaging in any activity dealing with children. What it does is takes them out of being school counselors and Boy Scout leaders and anything that would bring them in connection with children. In my own town, we had someone who has just been sentenced on a child pornography case and he was currently working at Crotched Mountain, where he had a whole group of children. It was a very sad case and it filled up the police station. But, I think if we take the access to children away from people dealing in child pornography, then we have solved part of the problem.

The amendment you will find on page 21 of today's calendar deals with teachers that have come to this state and then we find out they have a felony record and they will lose their teacher's certificate. So, we would urge your support of the amendment and the committee report of ought to pass as amended.

¶SENATOR BOND: I just would like to point out that what this bill and the amendment do is put the onus on the felon so that it is not only the responsibility of the organization to properly screen, but should they miss somebody through misrepresented information, or lack of information, the felony is that of the individual who makes application to work with children or to teach.

SENATOR DISNARD: Would you believe this would help a school district in case of a suit involving such a situation?

SENATOR BOND: It is my impression, Senator Disnard, that that is true.

SENATOR WHITE: Not only would it help the schools, it would help all the volunteer organizations because their liability is definitely limited by this, as Senator Bond said, by putting the person who committed the felony at fault and he has to prove his innocence. So, it would help everyone and it is not limited to the volunteer organizations that are covered or any other employment that's covered, that deals with children.

AMENDMENT TO HB 1147-FN

Amend RSA 632-A:10 as inserted by section 2 of the bill by inserting after paragraph II the following new paragraph:

III. A person is guilty of a class B felony if, having been convicted in this or any other jurisdiction of any of the offenses specified

in paragraph I of this section, he knowingly fails to provide information of such conviction when making application for initial teacher certification in this state.

Amend the bill by replacing section 3 with the following:

3 New Section; Revocation of Certification. Amend RSA 189 by inserting after section 14-b the following new section:

189:14-c Revocation of Certification. Any teacher certified in this state who has been convicted of any felony involving child pornography or of a felonious physical assault on a minor or of any sexual assault, shall have his teacher certification revoked by the New Hampshire state board of education.

4 Effective Date. This act shall take effect January 1, 1989.

AMENDED ANALYSIS

This bill makes it a felony for any person who has been convicted of any offense involving child pornography, or felonious physical assault on a minor, or of any sexual assault, to undertake employment or volunteer service involving the care, instruction, or guidance of minor children.

The bill also makes it a felony for any such person to knowingly withhold information about his conviction when applying for this type of employment, volunteer service, or teacher certification.

The bill also provides that any teacher in this state convicted of any of the listed crimes shall have his teacher certification revoked.

Amendment adopted. Ordered to Third Reading.

HCR 13, a concurrent resolution relative to adjustment of the shelter deduction permitted under the food stamp program. Ought to Pass. Senator Krasker for the Committee.

SENATOR KRASKER: HCR 13 addresses legislation currently pending in Congress to phase in the shelter allowance permitted under the food stamp program to more accurately reflect the actual cost of sheltering communities served by the program. This would be especially important to States like New Hampshire, where shelter costs are almost doubled the current \$250 cap for shelter.

Adopted. Ordered to Third Reading.

HB 921-FN, establishing a joint legislative oversight committee on highway and bridge construction and reconstruction plans. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR: HB 921 establishes a joint legislative oversight committee on highway and bridge construction and reconstruction. It is made up of five Senate members and five House members. The committee shall develop information upon their recommendations for legislation. The committee shall make a determination of availability of state and federal funds. These functions would occur with the input of the department of transportation. If the department of transportation cannot comply with the 10-year highway plan, whether it be a delay, acceleration, modification or elimination, they, the department of transportation, would make recommendations to the legislative oversight committee and the Governor and council.

The amendments change reference to the Governor's advisory commission on highways to Governor and council and this legislation authorizes the committee to set priorities based on recommendations from the department of transportation.

AMENDMENT TO HB 921-FN

Amend RSA 17-O as inserted by section 1 of the bill by inserting after RSA 17-O:3 the following new section:

17-O:4 Determination of Priorities. The committee established pursuant to RSA 17-O:1 shall determine all questions relative to the priority of projects contained in the 10-year plan, after the receipt and consideration of the department of transportation's recommendations. The priorities determined by the committee shall be implemented by the department of transportation. Nothing in this chapter shall be construed to void, nullify, or otherwise modify the governor and council's duties and responsibilities relative to awarding highway or bridge construction contracts.

Amend RSA 17-O:3, II as inserted by section 1 of the bill by replacing it with the following:

II. If the department of transportation cannot comply with the enacted 10 year plan, regardless of whether a recommended change constitutes a delay, acceleration, elimination, or modification of a project, the department shall submit its recommended changes to the committee and to the governor and council.

AMENDED ANALYSIS

This bill, as amended, establishes a joint legislative committee to continually review and update on an annual basis the 10 year state

highway and bridge construction and reconstruction plan. The joint committee shall determine the priority of projects to be implemented by the department of transportation. If the department of transportation cannot comply with the plan, it shall submit its recommended changes to the committee and to the governor and council.

Amendment adopted. Ordered to Third Reading.

HB 1081-FN, naming a part of Route 111 in the town of Windham the Waterhouse Memorial Road. Ought to Pass with Amendment. Senator Preston for the Committee.

SENATOR PRESTON:HB 1081 called for the naming of Route 111 in Windham after the Waterhouse family, known as Waterhouse Memorial Road. The family members had served as representatives, selectmen, members of Fish and Game and as you recall, Sergeant Waterhouse served in security for the Governor in the state police department. The department of highways and transportation requested several amendments to this piece of legislation.

The amendment provides, also, for year round maintenance for the base road of running from 302, in the town of Carroll, with the cog railroad base station parking area. It also addresses various statutes as requested by the highway department for highways and motor vehicles, some new provisions on regional truck permits for corporation with the other states.

SENATOR CHANDLER: I wish to support the bill and the committee amendment and would like to point out that the father of Sergeant Waterhouse was, if I'm right, one time a member of this distinguished body.

AMENDMENT TO HB 1081-FN

Amend the title of the bill by replacing it with the following:

AN ACT

naming a part of Route 111 in the town of Windham the Waterhouse Memorial Road, requiring year-round maintenance for Base Road in the town of Carroll and amending various highway and motor vehicle laws.

Amend section 2 of the bill by replacing it with the following:

2 Base Road Maintenance. Notwithstanding the provisions of RSA 228:27 or any other law to the contrary, Base Road, a class II road running from Route 302 in the town of Carroll to the Cog Railway Base Station parking area [in the town of Carroll,] in the unincorporated town of Thompson and Meserve's Purchase, shall be maintained by the department of transportation on a year-round basis.

3 State Aid for Highways. Amend the subdivision heading preceding RSA 235:10 to read as follows:

State Aid for Class I, II, and III Highways [State Aid]

4 Designation for Improvement. Amend RSA 235:10 to read as follows:

235:10 Designation for Improvement. The commissioner of transportation, whenever in his opinion the public good so requires, may designate for improvement, subject to the approval of the governor and council, any class I, II, or III highway or portion thereof.

5 Notice. RSA 235:13 is repealed and reenacted to read as follows:

235:13 Notice to Towns. On or before February 15 in each year, the commissioner of transportation shall notify all cities and towns which have expressed an interest in constructing or reconstructing any class I, II, or III highway or portion thereof, of the amount of state aid available to that city or town, and shall designate the highway location on which such funds shall be expended.

6 Cost. RSA 235:15 is repealed and reenacted to read as follows:

235:15 Cost; How Borne. If any city or town desires state aid for the purpose of constructing or reconstructing a section of class I, II, or III highway, the town shall pay 1/3 of the cost and the state shall pay 2/3 of the cost.

7 Joint Fund Expenditures. RSA 235:17 is repealed and reenacted to read as follows:

235:17 Joint Fund Expenditures. Fifty percent of the contribution of a city or town for state aid shall be remitted to the commissioner of transportation before any state aid project is begun, and the balance shall be remitted on completion of the project, and such contribution, together with the amount apportioned to it by the commissioner of transportation, shall constitute a joint fund to be expended under the supervision of the commissioner for the construction or reconstruction of only such class I, II, or III highways within such city or town as the commissioner shall have designated.

8 Unexpended Funds. Amend RSA 235:19 to read as follows:

235:19 Unexpended Funds. Any part of such joint fund not expended during the year for which it is set apart and apportioned

may be expended on class I, II, or III highways during any succeeding year at the discretion of the commissioner of transportation.

9 Surplus Funds. RSA 235:20 is repealed and reenacted to read as follows:

235:20 Surplus Funds After Completion. Whenever, upon the completion of a project on a class I, II, or III highway in any city or town, the joint fund has not been expended in full, the unexpended balance shall revert to the state and city or town in the same proportion as each contributed.

10 Payment by State. Amend RSA 235:21 to read as follows:

235:21 Additional Payment by State. Where it appears that the class I, II, or III highway designated for improvement by the commissioner is of no particular benefit to a town, or, in cases where a town is unable to pay its proportion of such cost, the commissioner may, with the approval of the governor and council, pay such further expense as he may deem equitable.

11 Injunctive Relief. Amend RSA 236 by inserting after section 81 the following new section:

236:81-a Injunctive Relief. In addition to any other remedy provided by this subdivision or by law, the commissioner of the department of transportation may obtain a mandatory injunction to enjoin the violation of any provision of this subdivision relative to outdoor advertising control.

12 Speed Limits. RSA 265:60, II(a) is repealed and reenacted to read as follows:

(a) In a posted school zone, at a speed of 10 miles per hour below the usual posted limit when children are going to or leaving school during opening and closing hours. Such limit shall only be in effect during the period when a yellow flashing beacon accompanying the posting is actuated.

13 New Section; Regional Truck Permit Agreement. Amend RSA 266 by inserting after section 24-a the following new section:

266:24-b Regional Truck Permit Agreement Authorized.

I. The commissioner of transportation is hereby authorized to execute all documents and perform all other acts necessary to enter into and carry out the provisions of a multi-jurisdictional regional truck permit compact, to be known as the New England truck permit agreement, for oversize non-divisible interstate loads.

II. The purposes of said agreement are to:

(a) Promote and encourage the fullest and most efficient use of the highway system by making uniform among member jurisdictions the administration of overdimensional and overweight permits for non-divisible loads with respect to motor vehicles in interstate operation;

(b) Enable participating jurisdictions to act cooperatively in the issuance of overdimensional and overweight permits and in the collection of appropriate fees, and

(c) Establish and maintain the concept of one administering jurisdiction for each permittee based on the rules established under the agreement.

III. The commissioner of transportation may adopt, pursuant to RSA 541-A, such rules as are necessary to enforce the terms of this agreement, which shall have the effect of law, and which shall provide for each of the member states to collect permit fees and perform audits on behalf of the other member states.

14 Repeal. The following are repealed:

I. RSA 235:16, relative to apportionment of state aid.

II. RSA 235:18, relative to state aid for reconstruction.

15 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill requires the commissioner of transportation to designate a section of Route 111 and Mammoth Road in the town of Windham as the Waterhouse Memorial Road. A suitable marker shall be erected in the right-of-way.

This bill, as amended, requires the department of transportation to provide year-round maintenance for Base Road, running from Route 302 in the town of Carroll to the Cog Railway Base Station parking area.

The bill, as amended, amends various statutes relative to highways and motor vehicles. It also inserts new provisions on outdoor advertising and a regional truck permit compact for oversize loads.

Amendment adopted. Ordered to Third Reading.

HB 862-FN, relative to solid waste disposal and source reduction. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: HB 862 has previously been through a lengthy process that has resulted in a landmark bill that focuses on solid waste problems in New Hampshire. The bill will require towns and cities of the state to become actively involved in waste management recycling programs. It will also require state agencies to practice what the legislation is preaching, that is directing each agency to develop comprehensive plans to recycle waste material. The con-

cern over the need for this legislation shows in the House Appropriations amendment that created a separate PAU, adding \$250,000 to the fiscal year 1989 operating budget for the purpose of the bill. Also, a solid waste study committee will continually review the state's solid waste management plan and submit annual reports to the Governor and Council, the President of the Senate and the Speaker of the House.

The amendment from our committee addresses the enforcement aspect of the legislation by providing the attorney general the power to conduct official investigations to insure compliance with the law. Also, in order to emphasize the seriousness of violating the solid waste disposal statute, the bill increases a fine violation from \$5,000 to \$25,000 per violation. Waste management is already a tremendous problem facing New Hampshire's towns and cities. HB 862 is the first step in attempting to deal with this problem. With the completion of the district solid waste management plans, within the year the state will have a better ability to identify specific concerns for the future development and solid waste disposal. In conclusion, I would just state that I find this to be one of the most moving, pro-environmental pieces of legislation that this body can vote on this year and you can be very proud as you go out on the campaign trail and be telling your constituents that you supported this bill. I really truly believe it's a good piece of legislation.

SENATOR NELSON: I was curious to know on roman numeral III-A about the \$25 per attendee and the fine. Where will that money go? Into what service will that money go?

SENATOR HOUNSELL: The \$25 is a fee for attendees to understand the legislation. We feel that it's not quite right for us to go out and tell people this is what they have to do without allowing for them to be trained. So, the money would go for the training, it's not a penalty.

SENATOR NELSON: Where do the penalties go? You said the penalties could be assessed at \$5,000 and what happens to that money when it comes into the state?

SENATOR HOUNSELL: The penalty, the part that you talked about was the \$25 fee for the training. The penalty, I believe, is current language and it's uping the amount from \$5,000 to \$25,000. It increases the violations of solid waste disposal statutes from \$5,000 to \$25,000. I'm not sure I can tell you where the money goes.

AMENDMENT TO HB 862-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to solid waste disposal and source reduction
and making an appropriation therefor.

Amend the bill by replacing all after section 7 with the following:

8 New Paragraph; Solid Waste Permit Requirements. Amend RSA 149-M:10 by inserting after paragraph I the following new paragraph:

I-a. It shall be unlawful to transport solid waste to, or to dispose of solid waste at, any facility other than an approved facility. For purposes of this paragraph, the term "solid waste" shall not include septage.

9 New Paragraph; Solid Waste Disposal Permits; Training Program Requirement. Amend RSA 149-M:10 by inserting after paragraph III the following new paragraph:

III-a. No person shall operate or construct a public or private facility after the effective date of this paragraph who has not completed a training course established and administered by the division under rules adopted under RSA 541-A. The registration fee for such course shall not exceed \$25 per attendee.

10 Permit Application Denials. Amend RSA 149-M:10, V-a(a) to read as follows:

(a) The person fails to demonstrate sufficient reliability, expertise, integrity and competence to operate a [hazardous] solid waste facility.

11 New Section; Official Investigation. Amend RSA 149-M by inserting after 149-M:11 the following new section:

149-M:11-a Official Investigation.

I. The attorney general shall have the power to examine witnesses and documents and to request information for the purpose of enforcing the provisions of this chapter.

II. If, during the course of any investigation under this chapter, the attorney general believes a person may have information or be in possession, custody or control of any document or other tangible object relevant to the investigation, before the institution of any court proceedings, the attorney general may serve upon the person a written demand for information; or a subpoena to appear and be examined under oath; or a subpoena duces tecum to appear and produce the documents or objects for inspection and copying. A written

demand for information may be mailed to the person believed to have such information. A subpoena or subpoena duces tecum of the attorney general may be served by the person designated in such subpoena to serve it. The attorney general may administer an oath or affirmation to any person and conduct hearings in aid of any investigation under this chapter. Any testimony given by any person so sworn shall be subject to the pains and penalties of perjury.

III. Any subpoena issued pursuant to this chapter shall:

(a) Describe the nature of the investigation.

(b) Describe the documents or objects with sufficient definiteness to permit them to be fairly identified.

(c) Prescribe a reasonable time at which the person shall appear to testify or within which the documents or objects shall be produced, and advise the person that objections to or reasons for not complying with, the subpoena may be filed with the attorney general on or before that date.

(d) Specify a place for the taking of testimony or for production and designate a person who shall be custodian of the documents or objects.

IV. A written demand for information issued pursuant to this chapter shall:

(a) Describe the nature of the investigation.

(b) Describe the information sought in connection with that investigation.

(c) Prescribe a reasonable time for complying with the information demand, and advise the person that objections to or reasons for not complying with the information demand may be filed with the attorney general on or before that date.

V. If a person objects to or fails to comply with the information demand, subpoena or subpoena duces tecum served upon him under this chapter, the attorney general may file in the superior court of the county in which the person resides or maintains his principal place of business or, if the person is a nonresident and has no principal place of business within this state, in Merrimack county superior court, a petition for an order of the court to enforce the subpoena or information demand. Notice of hearing and a copy of the petition shall be served upon the person, who may appear in opposition to the petition. If the court finds reasonable cause to believe that there may have been a violation of any provision of this chapter, and that the information, testimony, documents or objects sought are relevant to the investigation, it shall order the person to provide the information, to appear for testimony, or to produce the document or object for inspection and copying as demanded, subject to any modification of the subpoena or information demand the court prescribes.

12 Penalties. Amend RSA 149-M:12, III to read as follows:

III. Any person who violates any of the provisions of this chapter, or any rule adopted or order issued under this chapter, or any condition in a permit issued under this chapter shall be subject to a civil penalty not to exceed [\$5,000] \$25,000 for each violation, or for each day of a continuing violation.

13 New Paragraph; Penalties and Other Enforcement. Amend RSA 149-M:12 by inserting after paragraph III the following new paragraph:

III-a. Notwithstanding RSA 651:2, any person may, in addition to any sentence of imprisonment, probation or conditional discharge, be fined not more than \$25,000 if found guilty of any violation pursuant to RSA 149-M:12, II. Each day of violation shall constitute a separate offense.

14 Solid Waste Management Plans; Submission Deadline. Amend RSA 149-M:18, IV to read as follows:

IV. Each district shall, by October 1, [1983] 1989, prepare [a schedule for developing] a solid waste management plan which is consistent with the state plan and demonstrates consideration of existing solid waste agreements and environmental and economic factors in the area. The district shall submit the proposed solid waste management plan to the division of waste management and shall submit periodic reports to the division of waste management as required. If a district has not filed a solid waste disposal plan with the division by October 1, 1989, the state, through the division, shall develop a plan for that district. Upon completion of such plan, the state shall assess the district 125 percent of the costs of development of the plan, which assessment shall be paid to the state by the district within 6 months of the development of such plan.

15 Solid Waste Disposal Plan Requirements. RSA 149-M:19, I is repealed and reenacted to read as follows:

I. Each plan shall:

(a) Estimate the types, weights, and volumes of solid waste generated, including wet cell batteries, used motor oil, tires, sewage, sludge, demolition debris, and waste particular to the district or municipality, current and available methods of disposal and treatment, and the types, weights, and volume of recyclable materials that can be recovered and recycled.

(b) Develop future projections of the types, weights, and volumes of waste generated, and the types and amounts of solid waste materials that can be recovered and recycled based on current and future population growth trends.

(c) Identify numbers, types, and capacities of operating facilities in the district or town in compliance with this chapter, and the location, type, and capacity of any proposed facilities.

(d) Establish a process by which those facilities with known or suspected groundwater contamination or emission problems can develop a remedial action plan, including funding requirements and funding mechanisms.

(e) Demonstrate a capacity or implementation plan for disposal for 15 years and an ongoing planning process as required in RSA 149-M:17 for 20 years from the date of filing of the plan. Each such plan shall be reviewed by the division at least once every 5 years from the date of submission.

16 Solid Waste Disposal Plan; Annual Report. Amend RSA 149-M:19, III to read as follows:

III. Each district and [town] municipality shall be responsible for demonstrating continuous compliance with its plan as approved by the division of waste management. Each district and municipality shall file a bi-annual report detailing its compliance with the plan submitted under this chapter. Should the division of waste management determine that a district or [town] municipality is not in compliance, it shall issue a remedial order.

17 New Paragraphs; Department of Administrative Services; Recycled Materials. Amend RSA 21-I:1-a by inserting after paragraph II the following new paragraphs:

III. "Post consumer recycled waste material" means any product or material generated by businesses or consumers which has served its intended end-use and which has been separated from solid waste for the purpose of recycling and does not include those by-products and materials generated and commonly reused within the original manufacturing process.

IV. "Recycled materials" means post consumer recycled waste materials.

V. "Recycled products" means any product or material that is primarily made from post consumer recycled waste material. Recycled paper products are paper products which have at least 50 percent recycled fiber content from post consumer recycled waste material.

18 Recycled Products Purchase. Amend RSA 21-I:11, II to read as follows:

II. Purchasing all materials, equipment, supplies, and services for all departments and agencies of the state including contracting for the purchase or rental of data processing equipment, except as

otherwise provided by law. Insofar as practicable all such purchases shall be made in such quantities and manner as shall be most economical for the state.

(a) The director, division of plant and property management, with the assistance of all state agencies, shall cooperate with the generators and managers of waste materials which may be recycled and with the producers of products which use recycled materials to maximize the state's use of those materials and products. Not later than January 15 of each odd-numbered year, the director, division of plant and property management, shall submit a report to the governor and to the senate development, recreation and environment committee on the extent to which recycled products are purchased.

(b) Vendors shall, to the extent practicable, be required to include information on the percentage of post consumer recycled waste material content for all responsible bids submitted for paper and other products.

19 New Section; Recycled Products; State Agencies. Amend RSA 21-I by inserting after section 14 the following new section:

21-I:14-a Recycled Materials. Each state agency, under the direction of the director, division of plant and property management, shall develop a recycling program for post consumer recycled waste materials for which markets have been identified.

20 Solid Waste Study Committee; Membership; Issues; Compensation; Report.

I. There is established a solid waste study committee to conduct a continuous review of the state's solid waste management plan, and to suggest necessary legislation to address the state's changing solid waste disposal concerns. The committee shall be composed of the following:

(a) One member of the senate, appointed by the president of the senate.

(b) One member of the house of representatives, appointed by the speaker of the house.

(c) The commissioner of administrative services, or his designee.

(d) The commissioner of environmental services, or his designee.

(e) One representative of New Hampshire Resource Recovery Association, a non-profit recycling organization, appointed by the governor with the consent of the council.

(f) One member nominated by the New Hampshire Municipal Association, appointed by the governor with the consent of the council.

(g) One member nominated by the New Hampshire Business and Industry Association who is a manufacturer of recycled materials as defined in RSA 21-I:1-a, IV, appointed by the governor with the consent of the council.

(h) One member representing private environmental organizations in the state, appointed by the governor with the consent of the council.

(i) One representative of the state's solid waste transporters, appointed by the governor with the consent of the council.

(j) One member nominated by the Consulting Engineers of New Hampshire, appointed by the governor with the consent of the council.

II. The members of the committee shall select a chairman from among the members at the initial committee meeting. The committee shall meet at least 3 times each calendar year, or at the call of the chair.

III. The committee shall study the present and future solid waste disposal needs of the state, including, but not limited to, the following:

(a) Develop short-range source reduction goals for districts and municipalities.

(b) Review generic plans and designs for recycling centers.

(c) Review current solid waste disposal data to determine present and future volumes and types of waste generated, present disposal technologies, and prospects for future developments in solid waste disposal.

(d) Review present and future action plans to determine the best available technology feasible to remedy the state's solid waste disposal problems.

(e) Study packaging of consumer goods.

(f) Investigate equitable means to raise revenues for solid waste management.

(g) Consider potential state action to more effectively assist municipalities and solid waste management districts.

(h) Recommend measures to increase public awareness of solid waste management issues.

IV. The legislative committee members shall be reimbursed for mileage incurred on committee business at the legislative mileage rate, and state employee and private members shall be reimbursed at the state employee mileage rate.

V. The committee shall submit an annual report, including legislative recommendations, to the governor and council, the president of the senate, and the speaker of the house not later than December 1 of each year. If the joint rules of the general court require submis-

sion of legislation prior to December 1 of any year, the committee shall submit its legislative recommendations not later than the date established in the joint rules for that year.

21 Training Requirements; Solid Waste Facility Permits. Any person or municipality holding a solid waste facility permit under RSA 149-M:10 prior to the effective date of this act who has not completed a training course comparable to that required by RSA 149-M:10, III-a as inserted by section 9 of this act shall complete such course to the satisfaction of the director, division of waste management, not later than July 1, 1989.

22 Progress Report. The bureau of solid waste, division of waste management, department of environmental services, shall report on the implementation of the provisions of this act on or before December 1, 1988, to the speaker of the house, the president of the senate, and the legislative budget assistant.

23 New PAU; Appropriation. Amend 1987, 400:1 by inserting the following new PAU:

- 03 Resource protection and development
- 04 Department of environmental services
- 05 Division of waste management
- 04 Solid waste program

	<i>FY 89</i>
10 Personal services - permanent	23,946
20 Current expenses	10,000
30 Equipment	1,265
60 Benefits	4,789
70 In-state travel	1,000
80 Out-of-state travel	9,000
90 NHRRA contract	15,000
91 Operator training & cert.	75,000
92 Transfer to UNH	25,000
97 Technical assistance	85,000
	<hr/>
Total	250,000
Estimated source of funds for Solid waste program	
General fund	250,000
	<hr/>
Total	250,000

24 Totals Adjusted. The legislative budget assistant is authorized to adjust all totals as made necessary by the passage of this act.

25 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

The bill, as amended, establishes a state policy of waste reduction and recycling to address the state's solid waste disposal problem. The bill requires state agencies to use and purchase products made with recycled material whenever feasible. It also requires municipalities and solid waste management districts to submit solid waste management plans which address solid waste disposal for a period of 20 years.

The bill requires municipalities and solid waste management districts to submit current solid waste management plans to the division of waste management by October 1, 1989. The state will develop plans for those municipalities and districts which do not meet that deadline, and will assess those municipalities and districts 125 percent of the costs incurred by the state in developing such plans.

The bill authorizes the division of waste management to develop a grant program with the university system of New Hampshire to fund a research program in the area of solid waste management. The division is also authorized to coordinate with other states, interstate and federal agencies, and private organizations to develop an effective recycling program.

The bill authorizes the division to establish and administer a solid waste facility operation training program. The bill requires municipalities and solid waste management districts to submit annual reports on compliance with their solid waste management plans to the division of waste management, and requires the division to review each solid waste management plan at least once every 5 years.

The bill directs each state agency, under the direction of the division of plant and property management, department of administrative services, to develop a comprehensive plan to recycle waste materials.

The bill authorizes the attorney general to take certain investigative and enforcement actions to enforce the provisions of the bill.

The bill increases the fine for violations of the solid waste disposal statutes from \$5,000 to \$25,000.

The bill directs the bureau of solid waste to report on its progress in implementing this bill by December 1, 1988.

The bill establishes a new PAU, and appropriates \$250,000 to the division of waste management to implement the provision of the bill.

Amendment adopted. Referred to Finance (Rule #24)

HB 763, prohibiting the operation of wet bikes on Arlington Mill Reservoir in the town of Salem. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: This report that's in your calendar was voted on in committee, by the majority, as ought to pass. There was a minority feeling on this matter. I say that because we worked with Senator Freese, that being some of us in the majority, some of us who are concerned about this towards a floor amendment. It's my feeling, and I think the feeling of Senator Freese and some other people who are concerned about this, Senator Heath and Senator McLane, that there's a better solution then the amendment that appears in your calendar. So, at this time I would like to ask that you would vote no on the committee amendment so that a floor amendment might be presented and I could put the discussion around that.

Amendment failed.

Senator Hounsell offered a floor amendment.

SENATOR HOUNSELL: One thing that we had this session that I think is kind of new, as far as I'm concerned it was very new, was the introduction of several pieces of legislation dealing with the restrictions of jet skis, thrill bikes, wet craft or other things that they're called, but basically, what we refer to as jet skis generically, but they cover a whole number of different titles, to restrict those from certain bodies of water. We had five bills and they appear in your calendar today following 763, then there's 1119, 1014, 1023, 1075 and further down there was an amendment that was attached to 1171 to restrict another body of water. I call this a snowball type of legislation. Those bills, reflecting six bodies of water, grew in number so that by the time the Senate held the hearings on these, they grew to over 12 and after the hearings, I've had requests from legislators and other individuals to even add other bodies of water. It points to a very real, but new problem as far as this body is concerned if not the world out there, that jet skis are causing a lot of problems on the bodies of waters of the State of New Hampshire. The problems they're causing I don't believe are all intentional. I don't believe that everyone that rides a jet ski intentionally wants to add to the problem. However, these things are advertised as thrill craft. One advertisement says, go out and make waves. Well, when you're on a small machine that is loud, most everyone said they sound like a chain saw, the constant but broken increase of gasoline motors is just very loud. And when someone's out on the body of water, fly fishing and a jet ski goes by and makes waves, it's kind of, at the least minimum, rude. So, there is a need for us to do something.

The amendment that's before you, I think, is very important. I guess there's some humor to it although the phone calls that I've received,

I think, indicate that there's a lot of concern and I don't think it's a very humorous thing. Maybe I should be going faster, maybe that's what I'm suppose to be doing. The amendment before you, I think, solves a problem. How it solves it is it restricts jet skis on all the bodies of water except Winnepesaukee, Winnisquam, Sunapee and Newfound. It allows the department of safety to set up a procedure to have areas of those bodies of waters restricted. But, however, it does another thing; it starts a permitting process so any body of water over 100 acres can be petitioned so that those might be opened up to the operation to jet skis. It does put a permanent ban on Squam and Newfound Lake and I urge your support.

SENATOR PRESTON: I rise in opposition to the pending amendment. I know what a jet ski is, I've never attempted to ride on one, but I just don't think this is fair. The effort would have been to restrict all lakes but Winnepesaukee and the coastal waters the use of jet skis. We're taking a real negative approach. What we're doing here is prohibiting something and then making them have a hearing to see whether they'd be allowed again. Why not hold hearings to see whether they'd be allowed initially? I know they may be bothersome on the small lakes and maybe that's why these bills address it, but to just prohibit something we really don't know the economic impact, the effect on small business, marine dealers or others. I have no interest in the Yamahas or anyone else that's calling, I may not like bows and arrows but should I put a bill in to prohibit them in certain areas? A snowmobile might sound like a chain saw, should we prohibit these in certain areas of the state where there's a lot of homes? Should we prohibit hang gliding, that people think is a danger, up in the Conway area that could land on Route 16? I mean, it's just no fair. It's not fair. If you want to hold hearings, lets hold them in advance of the prohibition and not put some people out of business or have people own these vehicles not know what's happening here today and making last minute phone calls. It's just out of respect for the free enterprise, that I know the very Senators who sponsor this want. Let's just rethink the matter.

SENATOR BOND: Senator Preston is right in saying it's not fair perhaps. But, on the other side of the coin, what we have to market in New Hampshire in terms of tourism, in terms of character or style of life that we have, is part of our ruralness and our lakes and the very thing that people put on calendars. I have served on committees trying to deal with the problems created by ATV's. ATV's are abused; they are a perfectly acceptable vehicle when used properly, but when people abuse them they create a monster that chews

up other people's property. These things become an invasion of the privacy of people who are trying to enjoy their life in New Hampshire. I think it's the feeling of many of us that we have to deal with this problem before it becomes a problem instead of after. Once they have become an abused object on small bodies of waters, like most of those that had bills put in, there's no undoing the damage. Granted, I had one fellow say they do nothing but make a wake and they're gone. But, they make noise and they make visual pollution and I think, unfortunate as it is and unfair as it may be to some of the marine dealers, it's a necessary fact that we put some limits on and I would support Senator Hounsell's amendment.

SENATOR HEATH: With all due respect to Senator Preston's concerns, the larger lakes, with the exception of Squam, is exempt. Over the last two years, I can't think of a single complaint that wasn't generated through legislation, but just a complaint coming in to me as a legislator, I've had more calls on, unsolicited, not in reaction to a bill, people just calling up, "can't you do something about these things? They're like motorcycles going around and around in the front of my cottage"? I haven't been, perhaps, the greatest advocate for the shoreline owners in some issues, but we have to divide between activities and, some activities on the lake are incompatible. This one hasn't started yet, it is at the very primary stage. There's all sorts of boating opportunities on the lakes, there's all sorts of recreational activity, but we ought not to allow one more in right across the state that at this level is going to take away from the peace and quiet and the value of living on or against a lake in the State of New Hampshire. This is really the only time we can do this. If we wait in the future and there's a lot of kids out there with these things, we're going to have an ever-increasing lobby and it's one more thing that crowds make noise, it erodes the edge, disturbs the peace and quiet, destroys the fishing, destroys the estuaries as they come in and the turbulence stirs up the bottom, putrifies the water by stirring the nutrients off the bottom and putting them back into the food chains. This is the time to say a qualified, and this is qualified, no to the further expansion of this. Those dealers who have these and the ones that call me, and I got four or five questions from dealers on the telephone yesterday, are thinking of going into this business. That was their concern. None of them, that called me already had an inventory, so this sends the message out, either don't get the inventory or get it with the understanding that it's going to be prohibited on some lakes and those lakes that it's not prohibited the large majority of lake acreage in New Hampshire and the others where there is a possibility of opening if the people want it there,

that's where they can sell those machines if they got them in inventory. I frankly haven't seen a lot in the inventory in the marine dealers around my area. Representing perhaps more lakes than anybody in the legislature, with the possible exception of Senator Freese who may have as much lake frontage, we've never calculated it out, I can tell you that overwhelmingly the people are calling me and saying, do something about them. This is worse than snow machines; it's worse than motorcycles; it'll drive you nuts after a half an hour of somebody going around and around in a little bay. It just echoes the sound that it carries on water; it's just a straight shot right to your ear.

SENATOR CHANDLER: I never heard of a jet ski until yesterday afternoon when Senator Hounsell spoke to me and told me about this bill. From what he said, I said it sounds all right to me, sounds like it might be a good idea. Well, I got home in the evening and first got a telephone call from somebody in Bradford and a few minutes later I got another telephone call from somebody in Bradford. These two people from Bradford have cottages on Lake Massasecum and they said that they've had jet skis there for several years and have used them and nobody had ever complained about it. There's never been any accidents and this was the first I had heard of it. If the people were disturbed about it on Lake Massasecum, seems as those somebody might have called me. In spite of the fact that I told Senator Hounsell that I thought it might be a good idea, now I'm having second thoughts about it and I think I'd have to side with Senator Preston on this issue. I think we're getting too soft, too mollicod-dled, too apt to prohibit this and prohibit that and prohibit that. People come up here, they want to have some fun and we're depriving them. In my area, I never heard anything against it, so I think it should be all right.

SENATOR WHITE: I rise in strong support of the pending amendment before us. I had several people on the small lakes and ponds in my area come to me seeking relief from the reckless people that are out there causing havoc. I am a co-sponsor of HB 1014 and 1023 and Harrisville, and Nelson and Hancock all have small ponds. The problem is that it only takes one or two people to ruin a sport for the rest of the people. I think, as Senator Heath has pointed out, if we're going to stop it this is the time to stop it before everyone goes out and invests in the jet skis or invests in starting a small business. People come to this state for peace and quiet. "On Golden Pond" I think is a prime example; if they're out canoeing and you have a jet ski go by, how deleterous that would be to bring the tourist to the

State of New Hampshire. I urge your support. This is the time to do it. Congress has already started to ban the ATV's and let's do it before we have an enormous amount of jet skis in the State of New Hampshire.

SENATOR CHARBONNEAU: Senator White, would you believe that we should have another amendment on there that all distributors should buy the jet skis back?

SENATOR WHITE: Well, we haven't banned them entirely from the State of New Hampshire, so hopefully the ones that have been sold will be sold so they can use them on the over 100 acre lakes.

SENATOR FREESE: I oppose this bill as it came out of the committee and I sort of reluctantly stand here today supporting this compromise amendment. But, I do so because there is a problem out there and we've got to solve it. We've given the jet skis four of the largest lakes in the state for use, Lake Winnepesaukee, Lake Winnisquam, Lake Sunapee and Newfound Lake. With the hearing granted by the safety services, department of safety, there can be other bodies of water opened up. I think this is the way to go for a while and let's see what happens. We have had tremendous pressure in the committee, Development, Recreation and Environment, to do something about the problems that the jet skis do cause. It's too bad that the 10 to 15% of the riders make a problem for the other 80-85%. As I said, I'm not completely happy supporting this bill today, but I feel we have to do something to bring the matter under control and I urge you to support the compromise amendment.

Floor Amendment to HB 763

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the operation of ski craft on the
lakes, ponds, and rivers of the state.

Amend the bill by replacing all after the enacting clause with the following:

1 New Subdivision; Ski Craft. Amend RSA 270 by inserting after section 72 the following new subdivision:

Ski Craft

270:73 Definitions. In this subdivision:

I. "Bureau" means the department of safety, bureau of hearings, established pursuant to RSA 21-P:13.

II. "Department" means the department of safety.

III. "Operator" means a person who operates or who has charge of the navigation or use of a ski craft.

IV. "Private boat" means a boat as defined in RSA 270:2, V, including a ski craft.

V. "Ski craft" means any motorized watercraft or private boat which is less than 13 feet in length as manufactured, is capable of exceeding a speed of 20 miles per hour, and has the capacity to carry not more than the operator and one other person while in operation. The term includes a jet ski, surf ski, fun ski, or other similar device.

VI. "Watercraft" means a motorized ski craft, capable of being used as a means of transportation on or in the water, except a sea-plane.

270:74 Operation of Ski Craft.

I. No person shall operate a ski craft on the lakes, ponds, and rivers of the state unless the person is 16 years of age or older.

II. No person shall operate a ski craft within 150 feet of another ski craft, a boat, or the shore.

III. No person shall operate a ski craft unless he is wearing a personal flotation device which is Coast Guard approved type 1 or 2.

IV. No person shall operate a ski craft on the lakes, ponds, and rivers of the state except as follows:

(a) Ski craft may be operated on Lake Winnepesaukee, Lake Winnisquam, Lake Sunapee, and Newfound Lake except in areas designated as restricted pursuant to RSA 270:75.

(b) Ski craft may be operated on rivers or on lakes and ponds having an area of at least 100 acres, which are designated for such use following a hearing conducted pursuant to RSA 270:75, subject to such restrictions as may be imposed as a result of the hearing.

V. No person shall operate a ski craft on Big Squam and Little Squam Lakes.

270:75 Ski Craft Hearings. The bureau shall conduct hearings regarding the use of ski craft. After a hearing held in the vicinity of the lake, pond or river, the bureau may, pursuant to RSA 541, prohibit or restrict the use of ski craft on Lake Winnepesaukee, Lake Winnisquam, Lake Sunapee or Newfound Lake, or it may allow the use of ski craft on rivers or on other lakes and ponds in the state having an area of at least 100 acres subject to whatever restrictions are necessary to protect public safety, recreation or the environment. Any person aggrieved by such decision may appeal to the commissioner for a review of the record and final determination.

2 Rulemaking. Amend RSA 21-P:14, II, by inserting after subparagraph (s) the following new subparagraph:

(t) Procedures for requesting and conducting hearings pursuant to RSA 270:75.

3 Repeal. RSA 270:30-b, relative to jet skis, is repealed.

4 Effective Date. This act shall take effect October 1, 1988.

AMENDED ANALYSIS

This bill, as amended, prohibits the use of "ski craft" on all lakes, ponds, and rivers in the state, except Lake Winnepesaukee, Lake Sunapee, Newfound Lake, and Lake Winnisquam.

Lakes of 100 acres or more may have the prohibition lifted after a hearing before the department of safety, but no ski craft will be allowed on Big and Little Squam Lakes.

Floor amendment adopted. Ordered to Third Reading.

Senators Charbonneau and Nelson wish to be recorded as opposed.

HB 1119, relative to restrictions on thrill craft. Inexpedient to Legislate. Senator Hounsell for the Committee.

Senator Hounsell moved to lay HB 1119 on the table.

Adopted.

HB 1014, prohibiting ski craft on Nubanusett Lake and Spoonwood Pond in the towns of Nelson and Hancock. Inexpedient to Legislate. Senator Hounsell for the Committee.

SENATOR HOUNSELL: The committee report is inexpedient to legislate because we solved the problem on HB 763.

Adopted.

HB 1023, prohibiting the use of ski craft on Silver Lake in the town of Harrisville. Inexpedient to Legislate. Senator Hounsell for the Committee.

SENATOR HOUNSELL: This was reported inexpedient, HB 1023, because the problem has been solved on HB 763.

Adopted.

HB 1075-FN, relative to the use of ski craft on the lakes and ponds of the state. Inexpedient to Legislate. Senator Hounsell for the Committee.

SENATOR HOUNSELL: We moved 1075 inexpedient because we solved the problem on HB 763.

Adopted.

HB 944, enabling towns to hold special meetings to appropriate money for the purchase of land for conservation purposes. Ought to Pass. Senator Krasker for the Committee.

SENATOR KRASKER: This is permissive legislation; there was no opposition to the bill at the committee hearing. It enables towns, upon an affirmative vote at a town meeting, to hold special town meetings in order to raise and appropriate money, for the purchase rights to or any interest in land or water, recommended by the conservation commission for the purpose of utilizing and protecting natural resources and for protecting watershed resources. It will afford towns the flexibility they may need to acquire land for conservation purposes when that land comes on the market before the next scheduled, annual meeting. The committee urges your adoption.

SENATOR HEATH: Just briefly, I oppose this bill. I think it sets a dangerous precedent and that in the future we'll be allowing the calling of town meetings for capital expenditures and other areas. I think by violating the long held tradition of having a superior court rule on a town meeting, or having two-thirds of the taxpayers voting for capital improvements, we're setting a dangerous precedent. I can sympathize with some of the intent on this, but I think we're beginning to violate something that will, in the long run, cost us millions, and perhaps billions, of dollars as other causes come forward to set lower standards for spending. And we ought not to take that first step.

SENATOR BOND: Senator Krasker, does this bill make it possible for a town to call a town meeting for purposes of purchasing land or options without going through the superior court?

SENATOR KRASKER: Under current law, a town can either allocate funds under its annual meeting or it can also go to the supreme court for a special ruling after a 50% affirmative vote by its registered voters. I just want to comment also, that it is permissive legislation, only for those towns who want to be in a position to very quickly purchase some land while it is still available for conservation purposes.

SENATOR BOND: Then, what this does is say that at a regular town meeting, you can authorize, except for your town, the right to have special town meetings to expend money without going to the court? Is that correct?

SENATOR KRASKER: It allows special town meetings to be held whose only business is to purchase land, without going to the courts.

Division vote: 6 Yeas 9 Nays.

Motion lost.

Senator Bond moved inexpedient to legislate.

Adopted.

HB 772, providing for the classification of Lake Wentworth. Ought to Pass. Senator Hounsell for the Committee.

SENATOR HOUNSELL: Lake Wentworth has got fine water and it is in fact, class A and by making this in to legislation, we're making a commitment to keep that water as clean and pure as possible. We urge your support.

Adopted. Ordered to Third Reading.

HB 890-FN, relative to permits and responsibility for dams. Inexpedient to Legislate. Senator Hounsell for the Committee.

SENATOR HOUNSELL: A couple of years ago we established a joint committee to recodify the water laws of the State of New Hampshire. The Senate is participating with the House and has hired a staff person to take on that very difficult job. The committee feels it would be inappropriate for us to support a major change in the water laws until that recodification effort is complete. We urge the support of the committee's recommendation of inexpedient.

Adopted.

HB 876, relative to restricting water skiing in certain coves on Squam Lake. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: This bill, as it passed the House, restricts the use of water skis on some very special coves on Squam Lake, Rattlesnake Cove and Inner and Outer Squaw Coves on the lake. What this does is prohibits water skiing in those areas. There was strong support for this at the hearing and no opposition.

The amendment, that appears in your calendar, appropriates the sum of \$35,000 to the University of New Hampshire for the biennial of June 30, 1989. An appropriation shall be used to purchase and provide selected monitoring equipment for test sets for use in the lake monitoring program. The appropriation is in addition to any others made to the University. The purpose of this is to help the University help us in finding and collecting data on the effects of such things as acid rain. We feel it's very important and urge the Senate to support the committee report.

AMENDMENT TO HB 876

Amend the bill by replacing it with the following:

AN ACT

relative to restricting waterskiing in certain coves on
Squam Lake and making a supplemental appropriation
to the University of New Hampshire.

Amend section 2 of the bill by replacing it with the following:

2 Appropriation. The sum of \$35,000 is hereby appropriated to the University of New Hampshire, in PAU 06,06,01, for the biennium ending June 30, 1989. This appropriation shall be used to purchase and provide selected monitoring equipment and test sets for use in the lake lay monitoring program. This appropriation is in addition to any others made for the university for the biennium. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

3 Effective Date.

I. Section 1 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill, as amended, prohibits waterskiing within Rattlesnake Cove or Inner and Outer Squam Coves on Squam Lake and makes a supplemental appropriation to the University of New Hampshire for the lake lay monitoring program.

Amendment adopted. Referred to Finance (Rule #24)

Senator Blaisdell moved to waive reference to Finance.

Adopted. Ordered to Third Reading.

HB 1028-FN, relative to the water resources statutes. Inexpedient to Legislate. Senator Hounsell for the Committee.

SENATOR HOUNSELL: As we just did on 890, the same pertains to 1028; that is that this is a major change in the current water laws and as we're recodifying the laws and have made an investment in staff, we feel that it is not appropriate at this time to pass this. So, we urge the Senate to adopt the committee report of inexpedient.

Adopted.

HB 1041-FN-A, establishing a committee to study and develop a plan for the protection of the Upper Ammonoosuc River watershed. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: The bill creates a committee to study and recommend a program and legislation, if necessary, to continue to protect the water shed areas of the two main tributaries of the Upper Ammonoosuc. This also will be conducted in cooperation with the land conservation investment program. It's an ongoing recognition that there's some special pieces of land in the State of New Hampshire that need our attention.

The amendment merely strikes out that one of the Senate members of the committee would come North of Route 2. I'm sure that Senator Bond has got the full support of his constituents up North. However, if for some reason he should have a race and that person was from Franconia, then that person would be in District 1, but South of Route 2 and there would be no member. But, after we talked with Senator Bond, we felt that that was the thing to do and urge your support.

AMENDMENT TO HB 1041-FN-A

Amend paragraph III as inserted by section 2 of the bill by replacing it with the following:

III. The committee shall be composed of 2 members appointed by the governor; one of whom shall represent the forest industry; 2 members of the senate, appointed by the president of the senate; 2 members of the house appointed by the speaker of the house, one of whom shall live north of Route 2; the director of parks and recreation, or his designee; the director of forests and lands, or his designee; a representative of the land conservation investment program

appointed by the executive director of the program; a representative of the Trust for New Hampshire Lands appointed by the trustees; and a representative of the Society for the Protection of New Hampshire Forests, appointed by the executive director of the society.

Amendment adopted. Ordered to Third Reading.

HB 1171, relative to boating restrictions on White Pond and Duncan Lake in the town of Ossipee and prohibiting ski craft on Dublin Lake in the town of Dublin. Ought to Pass with Amendment. Senator Hounsell for the Committee.

SENATOR HOUNSELL: The bill, as amended by the committee, prohibits the operation of any power boat at a speed in excess of 6 mph on White Pond and Duncan Lake in the town of Ossipee.

The amendment strikes out any reference to the operation of ski craft. Whereas we've done that on HB 763, it is not necessary. We urge the Senate's support.

AMENDMENT TO HB 1171

Amend the title of the bill by replacing it with the following:

AN ACT

relative to boating restrictions on White Pond
and Duncan Lake in the town of Ossipee.

Amend section 1 of the bill by replacing it with the following:

1 White Pond and Duncan Lake. Amend RSA 486 by inserting after section 33 the following new section:

486:34 White Pond and Duncan Lake. No person shall operate any power boat at a speed in excess of 6 miles per hour on White Pond or Duncan Lake in the town of Ossipee. Any person who violates this section shall be guilty of a violation.

AMENDED ANALYSIS

This bill, as amended, prohibits the operation of any power boat at a speed in excess of 6 miles per hour on White Pond and Duncan Lake in the town of Ossipee.

Amendment adopted. Ordered to Third Reading.

HB 1097-FN, relative to underground storage tanks. Ought to Pass. Senator Hounsell for the Committee.

Senator Hounsell moved to lay HB 1097-FN on the table.

SENATOR HOUNSELL: Believing that this bill helps the gasoline dealers of the State and knowing that they have a little bit of concern and would like a couple of days, I ask the Senate to table this at this time.

Adopted.

HB 1142-FN-A, relative to the construction of certain water treatment projects and making an appropriation therefor. Inexpedient to Legislate. Senator Hounsell for the Committee.

Senator Blaisdell moved to substitute Ought to Pass.

Senator Blaisdell moved to lay HB 1142-FN-A on the table.

Adopted.

TAKEN FROM THE TABLE

Senator Heath moved to take HB 1097-FN off the table.

SENATOR HEATH: I have an amendment that I would like to offer to the Senate for their consideration. Because this bill is on the table for another purpose, what I would like to do is remove it, have you consider this amendment in whatever the case, then put it back on the table for the other purposes, as we finish with it. I think I can make a case for the amendment and I'd like to do that. I will promise you that I will support putting it back on the table as soon as we finish considering the amendment.

Adopted.

HB 1097-FN, relative to underground storage tanks. Ought to Pass. Senator Heath for the Committee.

Senator Heath offered a floor amendment.

SENATOR HEATH: If you happen to glance down the amendment and see \$400,000, the \$400,000 refers to the total amount of dollars coming out of the state, the maximum liability monetarily would be \$200,000. What this bill does is we have 58 families in the town of

Meredith who have, for a number of years, had gasoline in their water supply. The Town of Meredith came to me and they asked for a million dollars. They had taken money from the pollution fund and they had funded a plan that would cost them one million dollars to get water supplies to these people. Currently, we're spending, I believe it's in the neighborhood of \$17,000 or \$18,000 a month to carry bottled water to these people. Obviously, it's hard to take a shower in bottled water and to do some other things. We're already paying the cost of this in a slow fashion. A number of us, including the Selectmen, believe it's possible to resolve this by drilling some wells above this area, so that we're not encouraging the flume to spread toward Lake Wicwas and supply these families. This bill, instead of asking for the million dollars, asks for the State to match up to \$200,000 if the town puts up the \$200,000, they get a like amount from the state, no more than \$200,000, to relieve these families and the 58 affected locations of this burden, once and for all. We're paying for it already as we supply them bottled water. I think it has at least as much merit as the bill that I originally had intended it to go on, that deals with the lobstermen who was a victim, likewise, of an oil pollution spill and I would ask that you do that for these families who have suffered way too long on something that was not their fault. The liable person has not been located and determined anymore than the one concerning the lobstermen and that we take care of this now, this way, as opposed to bleeding this amount of money out by supplying with bottled water as we're doing now. In the very long run, I think, it will not only aid these families, it will set a precedent for retaining some cooperation from the town in such cases and it will show some justice in this case as we've done in some others this session.

SENATOR HOUNSELL: I rise in strong support of this. For years I've been aware of this and it's always kind of made me feel somewhat frustrated to know that these people have to shower or take baths in gasoline or even to drink gasoline. Currently, the State of New Hampshire, through the fund, is paying over \$18,000 a year to bring them bottled water to drink and for other things. I think it is something that is somewhat expensive but it's extremely necessary. I urge the support of the amendment.

SENATOR PRESTON: I just want to stand in strong support of Senator Hounsell. Senator Heath consented to take this amendment off another bill. I'm aware that the Governor's office and environmental services think they have a solution to the problem and I strongly support us putting this on this bill at this time.

SENATOR JOHNSON: I'd like to remind the body that the town of Meredith is one of three towns that was given legislative priority by this body last year and the town of Northwood is included among those three. I've not added a further amendment on this at this time, because there's at least the possibility that the town of Northwood will be seeking other funding that will solve its problem and if that is successful then we will all be happy. But, if that isn't the case, then it would be appropriate to include the funding for the town of Northwood to solve its problem the same way that we're talking about for the town of Meredith here.

Floor Amendment to HB 1097-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to underground storage tanks and relative
to funding a potable water supply for
the town of Meredith.

Amend the bill by replacing all after section 16 with the following:

17 Water Supply System; Town of Meredith; Matching State Funds.

I. The department of environmental services, with the prior approval of the governor and council, is authorized to provide a matching grant to the town of Meredith to fund a project which will provide a continuing source of potable water to the contaminated geographic area. Said grant shall be on an equal matching basis and the total project cost that is subject to match shall not exceed \$400,000.

II. The department of environmental services is authorized to expend an amount up to \$200,000 from the oil pollution control fund established under RSA 146-A:11-a for the purpose of providing the state match. Said matching funds shall not be made available to the town of Meredith until the project is completed and final approval is received from the department of environmental services. A grant agreement shall be prepared for execution by the office of the attorney general and shall be subject to the final approval of the governor and council.

III. Recoveries made under the provisions of RSA 146-C:11 which are related to this project, shall be deposited in the fund established under RSA 146-A:11.

18 Effective date.

I. Section 17 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect 60 days after is passage.

AMENDED ANALYSIS

The bill, as amended, extends the authority of the division of water supply and pollution control in its regulation of underground storage tanks. It extends liability for discharges from old underground storage tanks to persons owning or possessing such tanks before they ceased to function. It also requires owners and operators of underground storage tanks to demonstrate financial responsibility in order to receive a permit for such tanks.

The bill requires that operators of facilities immediately notify the owners of any discharge or disposal violating the chapter. Owners who are not operators are not to be held liable for violations of the chapter unless they are notified of the violation, or the owner knew or should have known of the violation in the course of normal business practice.

The bill grants the division of water supply and pollution control authority to inspect and obtain samples at a facility, monitor and test tanks, institute corrective measures, and take any action necessary to abate imminent threats to human health or the environment. Actions can include seeking injunctive relief against violators through the attorney general. The penalty for each violation is increased to \$10,000, with each day of violation counting as a separate violation.

The bill, as amended, authorizes the department of environmental services to make a grant up to \$200,000 to the town of Meredith to provide a potable water supply to the town. The grant is to be funded by the oil pollution control fund, and is to be made following completion of the project and final approval of the project by the department of environmental services. The grant is subject to the approval of the governor and council.

Floor amendment adopted.

Senator Heath moved to lay HB 1097-FN on the table.

Adopted.

TAKEN FROM THE TABLE

Senator Bond moved to take HB 887 off the table.

Adopted.

HB 887, relative to the jurisdiction of marine patrol officers. Ought to Pass. Senator Bond for the Committee.

Senator Bond offered a floor amendment.

SENATOR BOND: The problem that we had originally and the reason that the bill went on the table was because its language was too broad. The amendment which you have in front of you says, notwithstanding any other law to the contrary, the jurisdiction of marine patrol officers shall extend to any body of water, whether natural or manmade, within the state's jurisdiction, including streams, rivers, and lakes or ponds having an area of at least 10 acres. This meets the concerns where before it appeared they had jurisdiction over swimming pools. We urge your adoption of the floor amendment and the adoption of the bill.

SENATOR DISNARD: Senator Bond, I don't disagree. My question is how does this affect a great body of water over 10 acres that does not have a public access?

SENATOR BOND: This doesn't address access; this addresses the authority of the marine patrol officers on the body of water, the enforcement of state law on the body of water.

SENATOR DISNARD: By what means will they access the pond?

SENATOR BOND: This bill does not address that question.

SENATOR NELSON: Senator Bond, what impact would this have on the budget or any fiscal impact on this?

SENATOR BOND: None whatsoever that I know of. They indicated no fiscal impact.

SENATOR NELSON: What you're saying, that you were told that they would not need any more personnel, when they are already short now, to go out and patrol an extra lake?

SENATOR BOND: Senator Nelson, the way it was explained to me was that they are sometimes called to a private body of water for an enforcement problem and technically they do not have a legal right to go on that body of water at this time. But, this would make it legal for them to be there.

Floor Amendment to HB 887

Amend RSA 270:12-a, IV as inserted by section 1 of the bill by replacing it with the following:

IV. Notwithstanding any other law to the contrary, the jurisdiction of marine patrol officers shall extend to any body of water, whether natural or man made, within the state's jurisdiction, including streams, rivers, and lakes or ponds having an area of at least 10 acres.

AMENDED ANALYSIS

This bill clarifies the jurisdiction of marine patrol officers by including within their jurisdiction man made bodies of water within the state as well as natural bodies of water. The bill, as amended, limits the jurisdiction of marine patrol officers on lakes and ponds to those lakes and ponds of at least 10 acres.

Floor amendment adopted. Ordered to Third Reading.

TAKEN FROM THE TABLE

Senator Hounsell moved to take HB 1159-FN off the table.

Adopted.

HB 1159-FN, relative to the Southeast Regional Refuse Disposal District. Ought to Pass. Senator Hounsell for the Committee.

Senator Hounsell offered a floor amendment.

SENATOR HOUNSELL: The amendment has to do with the Southeast Regional Refuse Disposal District agreement. What it does is it is enabling legislation that enables several towns in that area of the state to enter into this agreement. The amendment strikes out Exeter, because at the town meeting they voted not to join the district. So, we urge your support of the floor amendment.

Floor Amendment to HB 1159-FN

Amend the bill by replacing section 1 with the following:

1 Southeast Regional Refuse Disposal District Agreement Legalized. The district agreement adopted pursuant to RSA 53-B by the towns of Brentwood, Hampton, Hampton Falls, Kensington, North Hampton, Rye, Sandown, and certain other municipalities, if any, and all actions taken by the municipal governments and municipal officials of said municipalities to adopt such district agreement, and taken by the district committee in formation of the district, are legalized, ratified, and confirmed. The Southeast Regional Refuse Dis-

posal District Agreement is adopted to implement the solid waste disposal responsibilities of the member municipalities under RSA 149-M. All terms, conditions, and provisions of the agreement shall be legal, valid, and binding in all respects on each member municipality, and any municipality which adopts the agreement after the effective date of this act.

Amend the bill by replacing section 2 with the following:

2 Status of District. The district is declared to be, from and after the date of its formation, a body politic and corporate, and a political subdivision and public instrumentality of the state of New Hampshire carrying out a public purpose and an essential governmental function of the state of New Hampshire, and, as such, is a legal entity for the purposes of undertaking cooperative action under RSA 53-B.

Amend paragraphs II and III of section 4 of the bill by replacing them with the following:

II. The district shall divide the program funds paid by member municipalities under the agreement according to the program options selected by each member municipality under the terms of the agreement.

III. The district shall have all other powers granted the district pursuant to the agreement and, specifically, those powers set forth in appendix D of the agreement.

Amend section 4 of the bill by inserting after paragraph III the following new paragraph:

IV. The member municipalities shall have the powers given to them, and shall divide and allocate the liabilities they incur, as members of the district pursuant to the agreement and specifically under appendix D of the agreement.

Amend the bill by replacing section 7 with the following:

7 Effective Date. This act shall take effect September 1, 1988.
Floor amendment adopted.

Senator Hounsell moved to lay HB 1159-FN on the table.

Adopted.

HOUSE MESSAGES

HOUSE REFERS TO INTERIM STUDY

SB 339-FN, relative to purchasing airports, establishing airport districts, and airport property tax base sharing agreements.

HOUSE CONCURS

SB 300, establishing a committee to study all aspects of laws, rules and practices relative to materials used in the construction of highways.

SB 344-FN, relative to the consignment of artworks.

HOUSE REFUSES TO CONCUR

SB 277, prohibiting the hunting of mourning doves in New Hampshire.

SB 292-FN, establishing a study committee to examine the future air travel needs of New Hampshire and relative to the management of the Nashua Airport Authority.

CACR 24, relating to the right to counsel in criminal proceedings.

CACR 29, relating to meetings of the General Court.

HOUSE CONCURS WITH SENATE AMENDMENT

HB 330-FN-A, relative to an exception to the real estate transfer tax.

HB 537-FN, relative to regulation of the practice of nursing.

HB 754-A, making an appropriation to acquire abandoned railroad rights of way.

HB 777-FN, relative to real estate appraisals conducted by banks and other lending institutions for loan applicants.

HB 790-FN, relative to the public investments study committee.

HB 798-FN, relative to special function liquor licenses for clubs and special liquor licenses and permits for nonprofit organizations.

HB 872-FN, regulating risk retention groups and purchasing groups.

HB 899-FN-A, allocating funds to the office of state planning to purchase computer equipment and making an appropriation therefor.

HB 953-FN-A, relative to a fire protection system for the vault in the state archives and making an appropriation therefor.

HB 995-FN, relative to exemption from the gasoline tax and state license plates.

HB 1016-FN, relative to municipal borrowing due to certain bankruptcies.

HB 1190, relative to the Belknap county attorney.

HOUSE ACCEDES TO THE REQUEST
FOR A COMMITTEE OF CONFERENCE

SB 279, relative to motor vehicle emissions testing.

The Speaker appointed Reps. Gordon, Greene, Sytek and Donovan.

SB 306-FN, relative to low dose mammography screening.

The Speaker appointed Reps. Fraser, Packard, Copenhaver and Sanderson.

SB 310-FN-A, relative to the purchase and distribution of breath analyzer machines and making appropriation therefor.

The Speaker appointed Reps. Musler, Sytek, Townsend and Morrisette.

SB 317-FN, relative to master plans and their housing sections.

The Speaker appointed Reps. Grodin, Golden, McIntyre and Dykstra.

SB 349-FN-A, to provide 2 additional field staff and additional equipment to the division of air resources for statewide air quality monitoring and making an appropriation therefor.

The Speaker appointed Reps. Greene, Millard, LaMott and Matson.

SB 261, relative to setting seasons and bag limits on small game birds and animals.

The Speaker appointed Reps. Felch, Boucher, Scanlan and Dionne.

SB 271-FN, establishing a study committee to examine the feasibility of relocating state agencies in Concord.

The Speaker appointed Reps. Pearson, Hager, Marsh and Levesque.

SUSPENSION OF THE RULES

Senator Dupont moved that the rules of the Senate be so far suspended to allow for an introduction of a House Concurrent Resolution.

HCR 15, urging Congress to pass legislation requiring federal review and a delay in the imposition or increase of airport fees.

SENATOR WHITE: I rise in support of allowing this piece of legislation in. I think what it does is it sends a strong message down to that taxing state of Massachusetts that they can't unilaterally increase the landing fees for people that want to come into Logan Airport in small planes. I think it's in the best interest of the State of New Hampshire that we support this resolution and send it down to Congress so that they can oversee this taxing that is being done south of the border.

Adopted. (2/3rds required)

Senator White moved that the rules of the Senate be so far suspended to dispense with a committee hearing, report not previously listed in the calendar.

Adopted. (2/3rds required)

HCR 15, urging Congress to pass legislation requiring federal review and a delay in the imposition or increase of airport fees. Ought to Pass. Senator White for the Committee.

Adopted. Ordered to Third Reading.

HOUSE REFUSES TO CONCUR
REQUESTS COMMITTEE OF CONFERENCE

HB 1154, permitting the Waterville Estates Village district to exceed its debt limitation.

The Speaker appointed Reps. Grodin, Perry, Clark and Gage.

Senator Freese moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Freese, Disnard and Delahunty.

HB 1146-FN-A, relative to abandoned property and making an appropriation to the state treasurer for purchase of a computer.

The Speaker appointed Reps. Gross, Weymouth, Martling and Arneson.

Senator St. Jean moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators St. Jean, Dupont and Preston.

HB 1144-FN, relative to civil penalties for violations by public utilities.

The Speaker appointed Reps. Fraser, Christy, Pantzer and Schwartz.

Senator Podles moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Podles, White and Nelson.

HB 1167-FN, relative to elderly property tax credits.

The Speaker appointed Reps. Perry, West, Morse and Gage.

Senator Roberge moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Roberge, Blaisdell and Chandler.

HB 1150-FN, permitting the attorney general to hire part-time attorneys general.

The Speaker appointed Reps. McCain, Torr, Sytek and Lachance.

Senator St. Jean moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators St. Jean, Bartlett and Podles.

HB 1109-A, relative to the purchase of the Cheshire bridge in the town of Charlestown and making an appropriation therefor.

The Speaker appointed Reps. LaMott, Miller, Boucher and Schwatz.

Senator Torr moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Torr, White, Krasker.

HB 1080-FN-A, relative to nongame species and making a continuing appropriation therefor.

The Speaker appointed Reps. Perham, Dionne, Boucher and Schwatz.

Senator Hounsell moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Hounsell, Krasker and Heath.

HB 980-FN, relative to penalties for sewage treatment violations.
The Speaker appointed Reps. Conroy, Young, Spear and McCann.

Senator Hounsell moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Hounsell, St. Jean and Freese.

HB 978, legalizing certain town meetings and zoning board of adjustment proceedings.

The Speaker appointed Reps. Golden, Barnes, King and Normandin.

Senator Pressly moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Pressly, Charbonneau and Heath.

HB 832, establishing a 10-year bridge construction and reconstruction plan.

The Speaker appointed Reps. Pearson, LaMott, Palumbo and Kincaid.

Senator Torr moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Torr, Hounsell and Preston.

HB 818, relative to the taking of trout.

The Speaker appointed Reps. Dionne, Boucher, Felch and Scanlan.

Senator Hounsell moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Hounsell, Krasker and McLane.

HB 551-FN, establishing a study committee relative to computer-based public records.

The Speaker appointed Reps. Hawkins, McCain, MacDonald and King.

Senator Podles moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Podles, Preston and Dupont.

HB 820, relative to the hunter education program and bow and arrow licenses.

The Speaker appointed Reps. Scanlan, Dionne, Boucher and Felch.

Senator Hounsell moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Hounsell, Freese and Preston.

HB 1093-FN, relative to reporting requirements of corporations having securities registered in this state.

The Speaker appointed Reps. Fraser, Pantzer, Lindblade and Provencal.

Senator Dupont moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Dupont, Stephen and Charbonneau.

HB 1067-FN, relative to the penalty for an aggravated DWI offense.

The Speaker appointed Reps. Jacobson, Johnson, Lozeau and Cote.

Senator Podles moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Podles, White and Preston.

HB 912, relative to rules in manufactured housing parks and warranties for presite built and prefabricated housing.

The Speaker appointed Reps. Perry, Adams, Soucy and Gage.

Senator St. Jean moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators St. Jean, Podles and Bartlett.

HB 885, relative to establishing a boat safety fund; and requiring a boat safety course or administrative fine for offenses while boating.

The Speaker appointed Reps. Haynes, Stewart, Thurston and Donovan.

Senator Hounsell moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Hounsell, St. Jean and Freese.

HB 858-FN, relative to fetal alcohol syndrome.

The Speaker appointed Reps. Sochalski, Bates, Butler and Foster.

Senator Krasker moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Krasker, White and Bond.

HB 734, relative to posting of bond by administrators of estates.

The Speaker appointed Reps. Robinson, Gage, Stonner and Arneson.

Senator Pressly moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Pressly, Charbonneau and Johnson.

HB 401-FN, relative to video tape depositions.

The Speaker appointed Reps. Johnson, Lozeau, Dexter and Cote.

Senator Podles moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Podles, White and Nelson.

HB 12, recodifying the workers' compensation law.

The Speaker appointed Reps. Warburton, Nichols, Turner and Blanche.

Senator Delahunty moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Delahunty, Charbonneau and Blaisdell.

HB 842, establishing a committee to study regulating development in unincorporated and unorganized places and placing a moratorium on sewage or waste disposal system construction in unincorporated and unorganized places.

The Speaker appointed Reps. Burns, Adams, Golden and Guay.

Senator St. Jean moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators St. Jean, Dupont and Bond.

ENROLLED BILLS AMENDMENTS

1089-FN, relative to clarifying and changing the penalties under certain forestry laws and relative to deceptive forestry business practices.

SENATOR CHANDLER: This enrolled bill amendment corrects a transcription error in the bill.

Amend the bill by replacing line 1 on page 2 with the following:

539:3-a Penalty. Any person violating the provisions of RSA 539:1 or

Adopted.

ENROLLED BILLS REPORT

HB 330, relative to an exception to the real estate transfer tax and to return of recovered property.

HB 480, recodifying the county corrections laws.

HB 611, relative to administrative forfeiture of certain items used in connection with drug offenses.

HB 777, relative to real estate appraisals conducted by banks and other lending institutions for loan applicants.

HB 884, relative to payment of rent by tenants.

HB 899, allocating funds to the office of state planning to purchase computer equipment and making an appropriation therefor.

HB 1048, relative to health care benefits for retired employees of political subdivisions.

HB 1151, relative to licensing pharmacists.

HB 1152, changing the name of the Laconia state school and training center.

HB 1190, relative to the Belknap county attorney.

HB 1193, relative to chiropractic and making an appropriation therefor.

SB 242, directing the state treasurer to loan funds to the towns of Exeter and Monroe for construction of sewage treatment facilities.

SB 255, relative to school district boundaries.

SB 267, relative to child passenger restraints in motor vehicles.

SB 276, relative to the delivery of services to children and their families, the division of children and youth services, and making an appropriation therefor.

SB 288, relative to placing articles on the official ballot and to declarations of candidacy in towns which have adopted the non-partisan ballot system.

SB 300, establishing a committee to study all aspects of laws, rules and practices relative to materials used in the construction of highways.

SB 319, relative to cancellation or termination of insurance policies.

SB 344, relative to the consignment of artworks.

RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, April 14, 1988 at 10:00 a.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

RECONSIDERATION

Senator Dupont moved reconsideration on his resolution to go into the Late Session.

Adopted.

EARLY SESSION

RECONSIDERATION

Senator Freese moved reconsideration on HB 1200, relative to apportionment of damages.

Adopted.

Senator Freese moved to put HB 1200 on second reading at the present time.

Senator Freese offered a floor amendment.

SENATOR FREESE: I'd like to have you turn to page 22 in the calendar under the amendment for HB 1200, under section four, roman numeral IV, on the second line it says party for pollutant and the word contamination should go in there between pollutant and containment. That was intended to be in the amendment as we acted on it today and through some oversight it didn't get in there. So, that is the amendment as the floor amendment we're offering on HB 1200 and we hope you support the motion.

Floor Amendment to HB 1200

Amend RSA 507:7-e, IV as inserted by section 4 by replacing it with the following:

IV. Nothing contained in this section shall be construed to modify or limit the duties, responsibilities, or liabilities of any party for pollutant contamination, containment, clean-up, removal or restoration as established under state public health or environmental statutes including, but not limited to, RSA 147-A and RSA 147-B.

Floor amendment adopted. Ordered to Third Reading.

Senator Roberge moved reconsideration on HB 237, limiting the civil liability of volunteers working on behalf of nonprofit organizations; establishing a special insurance compensation fund and a process to compensate persons with claims against volunteers.

Adopted.

Senator Roberge moved to put HB 237 on second reading at the present time.

Adopted.

Senator Roberge offered a floor amendment.

SENATOR ROBERGE: You'll notice on page 5 of today's calendar, roman three, which should have read; immunity conferred in this section shall apply only to the extent that there is no applicable insurance coverage. That is the only change.

SENATOR NELSON: Senator Roberge, is this the first amendment that is the only amendment that you brought forward on this bill today?

SENATOR ROBERGE: Yes. The one in the calendar is wrong so we're correcting it.

Floor Amendment to HB 237-FN

Amend RSA 508:17, III as inserted by section 1 of the bill by replacing it with the following:

III. Immunity conferred by this section shall apply only to the extent that there is no applicable insurance coverage.

Floor amendment adopted. Ordered to Third Reading.

RESOLUTION

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of the bills ordered to third reading be read a third time by this resolution and that all titles be the same as adopted, and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, April 14, 1988 at 10:00 a.m.

Adopted.

LATE SESSION

Third Reading and Final Passage

HB 743, relative to security deposits on rental property.

HB 812, relative to mutual savings banks and mutual holding companies.

HB 996-A, making an appropriation for the state's purchase of the Hillsborough county courthouse.

HB 1000-FN-A, relative to the Christa McAuliffe memorial and making an appropriation therefor.

HB 850, exempting motor vehicles carrying washed sand, screened loam, and crushed stone from obtaining a cargo insurance policy or indemnity bond.

HB 1066-FN-A, relative to group II of the New Hampshire retirement system and making an appropriation therefor.

HB 674-FN, relative to accidental disability benefits for New Hampshire retirement system members and to retirement benefits for certain legislative and constitutional officers.

HB 1202-FN, requiring the insurance commissioner to adopt a model report and requiring additional reports to be filed with the insurance commissioner.

HB 959, relative to the future energy supply needs of New Hampshire.

HB 896, permitting a corporation to limit the liability of its directors and officers in its articles of incorporation.

HB 758-FN, establishing a committee to study the juvenile justice system and juvenile delinquency, and relative to the age of criminal responsibility.

HB 740, establishing standards for marital mediators and relative to voluntary marital mediation in divorce proceedings.

HB 935, relative to recording plats.

HB 821, legalizing certain town meetings and hearings and relative to a statutory procedure for curing legal defects in town meetings.

HB 827-FN, relative to health screening for members of the general court.

HB 880, relative to certification of water quality laboratories.

HB 1147-FN, prohibiting persons who have been convicted of child pornography, felonious physical assault on a minor, or any sexual assault, from engaging in activities relating to the care of children.

HCR 13, a concurrent resolution relative to adjustment of the shelter deduction permitted under the food stamp program.

HB 921-FN, establishing a joint legislative oversight committee on highway and bridge construction and reconstruction plans.

HB 1081-FN, naming a part of Route 111 in the town of Windham the Waterhouse Memorial Road, requiring year-round maintenance for Base Road in the town of Carroll and amending various highway and motor vehicle laws.

HB 763, relative to the operation of ski craft on the lakes, ponds, and rivers of the state.

HB 772, providing for the classification of Lake Wentworth.

HB 876, relative to restricting waterskiing in certain coves on Squam Lake and making a supplemental appropriation to the University of New Hampshire.

HB 1041-FN-A, establishing a committee to study and develop a plan for the protection of the Upper Ammonoosuc River watershed.

HB 1171, relative to boating restrictions on White Pond and Duncan Lake in the town of Ossipee.

HB 887, relative to the jurisdiction of marine patrol officers.

HCR 15, urging Congress to pass legislation requiring federal review and a delay in the imposition or increase of airport fees.

HB 1200, relative to apportionment of damages.

HB 237, limiting the civil liability of volunteers working on behalf of nonprofit organizations and government entities.

Senator Dupont move that the Senate adjourn.
Adopted.

Adjournment.

Thursday, April 14, 1988

The Senate met at 10:00 a.m.
A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, it is good for us to be here, a little tired perhaps, by the rush, as one might say "of shaping things up, as always, as we

near the close of the session! But take courage as we strive to do better things next year! Bless us Lord.

Amen

Senator Chandler led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

RECONSIDERATION

Senator Roberge served notice on HB 237, HB 1202 and HB 740.

COMMITTEE REPORTS

HB 794-A, making capital appropriations and supplemental capital appropriations. Ought to Pass with Amendment. Senator Torr for the Committee.

Senator Torr moved to pass over HB 794-A.

Adopted.

HB 962-FN-A, relative to the study and design of a ski lodge at Mount Sunapee and making an appropriation therefor. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR: HB 962 appropriates \$50,000 to the department of resources and economic development for study design of a ski area lodge at Mount Sunapee.

The amendment increases the amount that the department of resources and economic development may spend on projects without competitive bidding from \$75,000 to \$150,000 to be done by force account or contracts awarded through competitive bids. The amendment further authorizes design-build concepts under certain conditions; if the projects are authorized by the capital budget overview committee if the general court is in session or by the fiscal committee if the general court is out of session. Further amended to include technical changes for the revolving loan fund and to provide for no payment to the revolving loan fund until after one year of completion of a sewer treatment project.

SENATOR MCLANE: Senator Torr, I skied at Sunapee the other day and looked at the area where they think the new building is going to go. It occurred to me that, before they need a new building, they need a study of more snowmaking. I wondered if that study could include snowmaking or is there some other method that they could study their present snowmaking?

SENATOR TORR: The presentation given to us was that they were looking for \$50,000 for a new ski lodge because of the fact that they have shifted the trails and making use of other trails now, and there is no facilities to service those.

SENATOR MCLANE: I guess my question of you is, would it be possible under that \$50,000 to also look at which trails would be possible to use by putting in more snowmaking?

SENATOR TORR: That I could not answer. As I indicated earlier, they only asked for the \$50,000 for that specific purpose and I would have to have them address the situation of the snowmaking situation at Sunapee.

SENATOR MCLANE: My question would be is it your opinion that, if in the study of where to put a new lodge and whether a new lodge is necessary, it would be possible to look at snowmaking as one of the elements going into that decision?

SENATOR TORR: It doesn't specify that, Senator McLane, in this specific legislation. But, with the very competent commissioner of DRED that we have at the present moment, I'm sure that he's looking at all angles to improve the revenue resources of the State of New Hampshire.

AMENDMENT TO HB 962-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the study and design of a ski lodge at Mount Sunapee
and making an appropriation therefor, and relative to
certain major capital projects and water pollution
control revolving loan fund.

Amend section 2 of the bill by replacing it with the following:

2 Department of Resources and Economic Development. Amend RSA 228:4, I(c) to read as follows:

(c) Projects for the department of resources and economic development whose estimated cost is more than \$10,000 but not more than [\$75,000] \$150,000. Such projects may be done on a force account basis or by contracts awarded through competitive bidding upon recommendation of the commissioner that such [procedure is]

projects are in the best interest of the state, and with the prior approval of the legislative fiscal committee and with the approval of governor and council.

3 Major Capital Projects. RSA 228:4, I(f) is repealed and reenacted to read as follows:

(f) Projects may be built through lease purchase arrangements based on a request for proposal provided that selection and award is based on an objective standard and that there are measurable criteria for evaluation. Projects may be built under the design build concept based on a request for proposal provided that selection and award is based on an objective standard and that there are measurable criteria for evaluation only if such projects are expressly designated as design build and authorized as such by the capital budget while the general court is in session or by the fiscal committee when the general court is out of session.

4 Revolving Loan Fund. Amend RSA 149-B:12, I to read as follows:

I. Authority is hereby granted for the state of New Hampshire to participate in the federally funded state water pollution control revolving loan fund as may be provided under the Clean Water Act as amended from time to time. The loan fund shall be administered by the commissioner of the department of environmental services under rules adopted by the commissioner under the provisions of RSA 541-A. The department of environmental services is hereby authorized to review projects funded from the state water pollution revolving loan fund for impacts on the human and natural environment similar in intent to the steps described in 40 CFR Part 6, Section 506 and 508 through 511, in accordance with rules adopted by the commissioner of the department of environmental services under RSA 541-A. A committee composed of the governor or designee, the commissioner of environmental services or designee, the treasurer or designee, one member of the executive council to be named by the governor, the chairman of the senate capital budget committee or designee, the chairman of the house resources, recreation and development committee or designee, one member of the house of representatives appointed by the speaker of the house, and one member of the senate appointed by the president of the senate, shall assist and advise the commissioner of environmental services in developing guidelines and rules for determining eligibility and the administration of the loan fund.

5 Revolving Loan Fund. Amend RSA 149-B:12 by inserting after paragraph II the following new paragraph:

III. Any borrowing by a municipality from the loan fund shall be governed by the applicable provisions of RSA 33, provided that the

first principal payment on any loan and the first of the annual payments required under RSA 33:2 may be deferred up to one year after the estimated or actual completion date of the project being financed by the loan, and provided further that no authenticating certificate shall be required under RSA 33:11.

6 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill appropriates \$50,000 to the department of resources and economic development for the purpose of a study and design of a ski lodge at Mount Sunapee.

This bill, as amended, increases the amount that the department of resources and economic development may expend on projects done without competitive bidding from \$75,000 to \$150,000, with prior approval of the fiscal committee and governor and council.

This bill, as amended, also authorizes the building of projects under the design build concept under certain conditions if such projects are authorized by the capital budget when the general court is in session or by the fiscal committee when the general court is out of session.

This bill, as amended, authorizes the department of environmental services to review projects funded from the state water pollution revolving loan fund under rules adopted pursuant to RSA 541-A.

The bill, as amended, also specifies that any municipality borrowing under the revolving fund shall be governed by the provisions of RSA 33, with certain provisos.

Amendment adopted. Ordered to Third Reading.

HB 1092-FN, amending the 10-year highway plan. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR: HB 1092-FN provides for five major projects to be added to the 10-year highway plan, They being: the Windham-Salem, Keene-Swanzey, Plaistow-Kingston, Alton-Gilford and Seabrook-Portsmouth projects. The amendment assures the projects will fall at the end of the 10-year highway plan.

AMENDMENT TO HB 1092-FN

Amend 1986, 203:4-a, I(a) as inserted by section 1 of the bill by replacing it with the following:

- (a) Windham-Salem To provide an approximately 2-mile bypass of New Hampshire 111 beginning in the vicinity of I-93 in Windham and run-

ning easterly to join 1981 construction in Salem, provided the department of transportation shall first, in cooperation with the towns of Salem and Windham, carefully evaluate alternatives prior to any commitments or expenditures for acquisition of the right of way.

Amend 1986, 203:4-a as inserted by section 1 of the bill by inserting after paragraph I the following:

II. The commissioner of the department of transportation shall implement the projects itemized in paragraph I after implementing all other 10-year highway plan projects and shall place these projects into the department's design phase flow chart as soon as possible.

Amend the bill by deleting section 2 and renumbering section 3 to read as2.

AMENDED ANALYSIS

This bill adds 5 projects to the 10-year highway plan. These projects are to be implemented at the end of the 10-year plan.

Amendment adopted. Ordered to Third Reading.

HB 353-FN-A, relative to condominium conversions. Ought to Pass with Amendment. Senator Pressly for the Committee.

SENATOR PRESSLY: This is a complete replacement bill, so if you're looking at the bills in your packet, that's not the correct bill. If you'll turn to page 5, that is the correct bill. The committee worked very hard with the interested parties on this bill and felt that the original bill was not viable and therefor rejected that. However, they did come up with another concept that everyone supported and was very positive about.

It basically will make it possible that with any housing project that was originally federally funded and the owner now choses to sell the property, that that owner give the local municipality and the tenants one-year's notice of the intention to sell. This will enable the municipality or a tenants group to form itself and to possibly purchase the structure at the market price. Thus doing, it would maintain some of the housing stock that we currently have. The people who have

worked with this are very pleased and excited. It has the support of the Board of Realtors and it has the support of the legal assistance people. We're very optimistic that this is something that will be helpful in our housing situation.

SENATOR HOUNSELL: Senator Pressly, as I read the amendment on page 5, I see that it says that it gives municipalities the right of first refusal. Am I reading the right bill?

SENATOR PRESSLY: Yes.

SENATOR HOUNSELL: As I further read this it says, that a person who owns such a building would have to give 12 months notice of intention that he wishes to dispose of this building. My question is, what if something were to happen within a six-month period? What if he wanted to quick sell the thing, say in three, four, five, six months, would he be able to if this passed?

SENATOR PRESSLY: Yes, he would be able to. Bear in mind, this bill only applies to properties that have had public money involved at the beginning. This is happening nationwide. These are projects that have had your tax dollar involved in their funding. According to most of these packages, they are 40 year loans. The owner is able, after 20 years, so this is a property that has been held by 20 years and has a public money already invested in to it. All we're asking is that the owner give notice and allow the municipality to meet the current market value price.

SENATOR HOUNSELL: Then if it's the case that someone did his funding for the project apart from public money, in other words he used his own private money, he wouldn't have to comply with the provision?

SENATOR PRESSLY: That is correct. It only applies to projects that have had public money already involved in their funding.

AMENDMENT TO HB 353-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

relative to municipalities acquiring
certain housing projects.

Amend the bill by replacing all after the enacting clause with the following:

1 New Chapter; Subsidized Multi-Family Rental Housing Projects. Amend RSA by inserting after chapter 356-C the following new chapter:

CHAPTER 356-D

MULTI-FAMILY RENTAL HOUSING PROJECTS

356-D:1 Definition.

I. In this chapter "subsidized multi-family rental housing project" means housing that is:

(a) Financed by a loan or mortgage that is insured or held by the Secretary of the United States Department of Housing and Urban Development pursuant to:

(1) Section 221(d)(3) or (5) of the National Housing Act (12 U.S.C. Section 1715l).

(2) Section 236 of the National Housing Act (12 U.S.C. Section 1715Z-1).

(b) Financed by a loan or mortgage made by the Farmers Home Administration under the Section 514 or 515 rural rental housing programs (42 U.S.C. Section 1484, 1485).

(c) Subsidized by a project based housing assistance payment contract which was executed with the United States Department of Housing and Urban Development pursuant to the Section 8 new construction or substantial rehabilitation program. (42 U.S.C. Section 1437(b)(2)).

II. This definition shall also include the first sale of subsidized multi-family rental housing after the federal assistance granted under one of the programs in paragraph I of this section has expired or been terminated.

356-D:2 Municipality To Have Right Of First Refusal.

I. Notwithstanding any other law to the contrary, any person who owns a subsidized multi-family rental project shall give written notice to each tenant and to the municipality in which such project is located of his intention to sell or otherwise dispose of such project at least 12 months prior to sale or disposition. The municipality shall have the right of first refusal to acquire the project during this 12 month notice period.

II. If the municipality declines the right of first refusal it shall notify the owner prior to the end of the 12 month period. If the municipality declines or fails to exercise its right of first refusal, the tenants shall have the remainder of the 12 month notice period or 60 days, whichever is later, to form a tenants' association to exercise the right of first refusal.

2 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill, as amended, requires owners of subsidized multi-family housing projects, as defined under this bill, to give the municipality in which the project is located a 12 month written notice of an intention to sell or otherwise dispose of such project. The municipality is thereby afforded a right of first refusal to acquire the housing project.

Under this bill, the municipality shall notify the owner within the 12 month period of its intentions. If the municipality declines or does not exercise its option, the tenants shall have the remainder of the 12 month period or 60 days, whichever is later, in which to form an association to acquire the project.

Amendment adopted. Ordered to Third Reading.

HB 1115-FN-A, relative to emergency management expenditures. Ought to Pass with Amendment. Senator Stephen for the Committee.

SENATOR STEPHEN: This bill was presented to the committee by Richard Strome, director of the Governor's disaster office.

The amendment merely tightens the procedure that is set forth in this bill. The committee recommended ought to pass.

AMENDMENT TO HB 1115-FN-A

Amend RSA 107-C:3 as inserted by section 1 of the bill by replacing it with the following:

107-C:3 Governor's Office of Emergency Management. There is hereby created a governor's office of emergency management and a state director of emergency management. The governor, with the advice and consent of the executive council, shall appoint a director of emergency management to serve during the governor and council's pleasure. The director may employ such necessary technical, clerical, stenographic, and other personnel, fix their compensation, and may make such necessary expenditures from state or federal funds as are or may be made available to him for purposes of emergency management. The director and other personnel of the emergency management agency shall be provided with appropriate office

space, furniture, equipment, supplies, stationery and printing, and funds for traveling and related expenses, in the same manner as provided for personnel of other state agencies. The director, subject to the direction of the governor, shall be the executive head of the emergency management agency and shall be responsible to the governor for carrying out the program for emergency management of the state. He shall coordinate the activities of all organizations for emergency management within the state, state and local, county, and private, and shall maintain liaison with and cooperate with emergency management agencies and organizations of other states and of the federal government, and shall have such additional authority, duties, and responsibilities authorized by this chapter as may be prescribed by the governor. If, as a result of a disaster declaration, the state of New Hampshire enters into an agreement with the federal government or another entity for assistance, either direct or indirect, financial or otherwise, such agreement shall be transmitted to the president of the senate and to the speaker of the house within 30 days after approval by the governor and council. Any obligation of the general fund of the state of New Hampshire as a result of such an agreement shall be submitted jointly to the general court by the president of the senate and speaker of the house for prompt payment. Administrative costs of the state of New Hampshire incident to such obligating shall be included in the submission to the general court.

Amend the bill by deleting section 2 and renumbering section 3 to read as follows:

2

AMENDED ANALYSIS

This bill, as amended, requires the director of emergency management, if he enters into an agreement with the federal government or other entity as a result of a disaster declaration, to transmit such agreement to the president of the senate and speaker of the house of representatives within 30 days after approval by governor and council.

If an obligation is imposed on the general fund by such agreement, the president and speaker will jointly submit the obligation and any incidental state costs to the general court for payment.

Amendment adopted. Ordered to Third Reading.

HB 1137-FN, relative to the reports required by and the setting of tax rates for municipalities, counties, and school districts. Ought to Pass with Amendment. Senator Pressly for the Committee.

SENATOR PRESSLY: Portions of this bill are the result of a study committee that had been established to study this area. The bill also permits this study committee to continue in evaluating this whole area of concern.

The amendment adds a portion so that cities and towns will have the mechanism available to improve their bond rating. The committee felt it was a worthwhile bill and recommends ought to pass with the amendment.

AMENDMENT TO HB 1137-FN

Amend RSA 21-J:34, VIII as inserted by section 1 of the bill by replacing it with the following:

VIII. If a city, town, school district, or village district is audited by an independent public accountant, it shall submit a copy of the audited financial statements in accordance with RSA 21-J:19, III. Any city or town which has adopted the provisions of RSA 21-J:35, IV(b) shall have included with the annual financial statement a supplemental schedule showing the use of any accumulated fund balance.

Amend the bill by replacing section 4 with the following:

4 Estimating Revenues; Accumulated Surplus. RSA 21-J:35, IV is repealed and reenacted to read as follows:

IV. If the commissioner finds that the estimated revenues included are inaccurate or inappropriate, he shall adjust the estimates in question.

(a) In computing any city, town, or village district tax rate, the commissioner shall deem any accumulated surplus or accumulated unappropriated fund balance to be available to reduce the tax rate. The commissioner shall adopt rules under RSA 541-A regarding the acceptable percentages of accumulated surplus which may be retained by a city, town, or village district.

(b) Any city or town which is audited annually in accordance with generally accepted accounting principles by an independent public accountant and whose audit is complete and available to the public at least 2 weeks prior to the date of the vote on the issue may, with approval by majority vote of its legislative body, deviate from the provisions of RSA 21-J:35, IV(a) as follows:

(1) In a town, the question shall be placed annually on the warrant of the annual town meeting. In no event shall the question be placed on the official ballot.

(2) In a city, the legislative body may consider and act upon the question in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation.

(3) The governing body shall hold a public hearing on the question not more than 30 days before the question is to be voted on. Notice of the hearing shall be posted in at least 2 public places in the municipality and published in a newspaper of general circulation at least 7 days before the hearing.

(4) The wording of the question shall be as follows: "Shall we adopt the provisions of RSA 21-J:35, IV(b), which provide for a deviation from the commissioner of revenue administration's administrative rule regarding the retention of accumulated surplus?" If a majority of those voting on the question vote "yes", then the legislative body shall vote to adopt either the amount or percentage of the accumulated surplus or accumulated unappropriated fund balance which will be used to reduce the current year's tax rate. The amount or percentage shall be recorded in the official minutes of the meeting as certified by the clerk. In the event that an amount or percentage is not specified, then the commissioner's administrative rule regarding the retention of accumulated surplus shall prevail.

(c) All state revenue estimates necessary for the computation of municipal tax rates shall be filed with the commissioner of revenue administration on or before September 1 of each year. If such revenue estimates are not submitted by September 1, then the commissioner may use the prior year's revenue figures, or the best available revenue estimates, for the computation of municipal tax rates.

AMENDED ANALYSIS

This bill sets dates for the governing bodies of cities, towns, school districts, and village districts to submit the financial reports and other documents to the commissioner of revenue administration which are necessary for computing and establishing their tax rates. The bill also specifies what must be contained in each report.

The bill authorizes the commissioner of revenue administration to set tax rates for counties, school districts, and village districts, in addition to cities, towns, and unincorporated places, and, in computing any city, town, or village district tax rate, to deem any accumulated surplus or accumulated unappropriated fund balance, to be available to reduce the tax rate. The bill also permits any city or town which is audited annually in accordance with generally ac-

cepted accounting principles by an independent public accountant to, by a majority vote of its legislative body, adopt either the amount or percentage of the accumulated surplus or accumulated unappropriated fund balance which will be used to reduce the current year's tax rate, and thus deviate from revenue administration rules regarding the retention of accumulated surplus.

The bill also continues the existence of the study committee established in 1987 to study granting municipalities the option of setting their own tax rates until November 1, 1988.

Amendment adopted. Ordered to Third Reading.

HB 873-FN, changing the title of "safety inspectors" to "highway enforcement officers" in the department of safety and providing for independent inspectors for carnival and amusement rides. Ought to Pass with Amendment. Senator Freese for the Committee.

SENATOR FREESE: This bill was requested by the department of safety. Doug Patch, the assistant commissioner, testified at the Senate hearing. The bill changes the title of safety inspectors to highway enforcement officers in the department of safety. There are about 50 of these people to handle hazardous waste, motor carrier safety, truck weighing, emissions control. It was thought that the highway enforcement officers term more closely described their duties.

The amendment, on page 12, also provides for independent inspectors and agents of the commissioner of safety to inspect carnival and amusement rides, which is what is presently taking place. The statutes do not read this way and so the new amendment on the bill really adopts a statute in keeping with what the department is doing. The amendment also provides for transfer of 15 or so common carrier groups, now with the department of transportation, and they were formerly with the PUC to the department of safety. The 15 people do similar work as the inspectors, inspecting trucks and, they will be more effective and accountable in the department of safety. The acts shall take effect on July 1, 1988 and the executive committee recommends ought to pass.

SENATOR JOHNSON: Senator Freese, are the safety inspectors now members of group I or group II?

SENATOR FREESE: The safety inspectors now are members of group II, they go to police standards and training. They have the same courses that the state troopers do.

SENATOR JOHNSON: So there will be no impact on the group II?

SENATOR FREESE: That is true.

AMENDMENT TO HB 873

Amend the title of the bill by replacing it with the following:

AN ACT

changing the title of "safety inspectors" to "highway enforcement officers" in the department of safety, providing for independent inspectors for carnival and amusement rides, and relative to the bureau of common carriers.

Amend the bill by replacing all after section 12 with the following:

13 Change in Reference. On the effective date of this act, all references in the RSA to "safety inspectors" in the department of safety shall be changed to read "highway enforcement officers", except as otherwise specified by this act. Any reference to "safety inspectors" in any rule adopted by the department of safety shall be construed to mean "highway enforcement officers".

14 New Subparagraph; Authority. Amend RSA 21-P:4, IV by inserting after subparagraph (b) the following new subparagraph:

(c) Power to enforce the provisions of RSA 375-A, 375-B, and 376.

15 New Subparagraphs; Rulemaking. Amend RSA 21-P:14, II, by inserting after subparagraph (s) the following new subparagraphs:

(t) Application for and issuance of household goods carrier certificates, including all necessary forms, as authorized by RSA 375-A:3 and 375-A:5, IV-V.

(u) Annual reporting requirements, as authorized by RSA 375-A:13.

(v) Regulating household goods carriers, as authorized by RSA 375-A:14.

(w) Regulating common and contract carriers of property by motor vehicle, as authorized by RSA 375-B:17.

(x) Regulation of common and contract carriers of passengers by motor vehicle, as authorized by RSA 376:21.

16 Department Defined. Amend RSA 375-A:1, I to read as follows:

I. "Department" shall mean the department of [transportation] safety.

17 Commissioner Defined. Amend RSA 375-A:1 by inserting after paragraph III the following new paragraph:

IV. "Commissioner" shall mean the commissioner of the department of safety.

18 Fees. RSA 375-A:18 is repealed and reenacted to read as follows:

375-A:18 Fees. The following fees shall be paid:

I. To the department:

(a) For each application for a household goods carrier for which a certificate is issued pursuant to RSA 375-A:2, \$25.

(b) For each application for a household goods carrier for which a certificate is issued pursuant to RSA 375-A:3, \$50.

(c) For the annual registration of each vehicle used in the carriage of household goods, \$5.

(d) For each transfer of a registration certificate, \$1.

II. The department of safety, division of motor vehicles, shall deduct from the fee received under paragraph I of this section the actual cost of issuing such registration certificates and number plates and shall forward the balance to the department to be used by it in the administration of this chapter.

19 Department Defined. Amend RSA 375-B:2, I to read as follows:

I. "Department" shall mean the department of [transportation] safety.

20 Certificate Defined. Amend RSA 375-B:2, IX to read as follows:

IX. "Certificate" shall mean a certificate of public convenience and necessity issued under the provisions of this chapter by the department of [transportation] safety to a common carrier of property by motor vehicle.

21 Permit Defined. Amend RSA 375-B:2, XI to read as follows:

XI. "Permit" shall mean a public interest permit issued under the provisions of this chapter by the department of [transportation] safety to a contract carrier of property by motor vehicle.

22 New Paragraph; Commissioner Defined. Amend RSA 375-B:2 by inserting after paragraph XIV the following new paragraph:

XV. "Commissioner" shall mean the commissioner of the department of safety.

23 Fees. Amend the introductory paragraph of RSA 375-B:20, I to read as follows:

I. There shall be paid to the department of [transportation] safety[,] the following fees:

24 Department Defined. Amend RSA 376:2, I to read as follows:

I. The term "department" means the department of [transportation] safety.

25 Vehicles To Be Registered. Amend RSA 376:24 to read as follows:

376:24 Vehicles To Be Registered. Each motor carrier holding a certificate or a permit under the provisions of this chapter shall annually apply to the department of safety, division of motor vehicles, on blanks to be furnished by it, for the registration of each vehicle operated under the provisions of such certificate or permit and pay to said department fees as provided for in RSA 376:25. Upon receipt of such application and fee, a distinguishing number plate or plates and registration certificate shall be furnished by the division for each vehicle applied for and said plates shall be prominently displayed on the vehicle in such manner as the director of the division shall prescribe. No such plates shall be transferred from one vehicle to another, except upon authority and with the consent of the department of [transportation, which said authority and consent shall be certified by the department of transportation to the division] safety, and the payment of the fees prescribed in RSA 376:25. Registration certificates and number plates issued under the provisions of this section shall be used coincidental with, and shall expire with, the corresponding registration certificate and number plates issued by the division of motor vehicles, department of safety, of this state under the provisions of RSA title XXI; provided, however, that if the vehicle so registered as a motor carrier is not registered with the division of motor vehicles, department of safety of this state under [said] title XXI, said carrier registration certificate and number plates shall expire on March 31 next following the date of issue.

26 Revenues. RSA 376:28 is repealed and reenacted to read as follows:

376:28 Disposition of Revenues. All fees and fines collected pursuant to the provisions of this chapter and RSA 375 shall be made available to the department of safety, except that the cost of issuance of registration plates shall be paid to the division of motor vehicles.

27 Transfer.

I. All of the functions, powers, duties, and responsibilities of the bureau of common carriers in the department of transportation are transferred to the department of safety. The transfer provided for in this section shall include all of the personnel, books, papers, records, equipment, unexpended appropriations or other funds, actions and other property or obligations of any kind of the bureau of common carriers in the department of transportation.

II. All rules pertaining to the bureau of common carriers shall remain in effect and shall be transferred to the department of safety.

28 Repeal. The following are repealed:

I. RSA 21-L:12, XXVI, relative to commissioner of transportation rules for household goods carriers.

II. RSA 21-L:12, XXVII and XXVIII, relative to commissioner of transportation rules for common and contract carriers.

III. RSA 21-L:12-a, VIII and IX, relative to optional commissioner of transportation rules for household goods carriers.

29 Certification Required. Any department of transportation inspector in the bureau of common carriers who is transferred to the department of safety pursuant to this act shall fulfill the education and training requirements of RSA 188-F:27 and any rules adopted by the police standards and training council within the period of time provided under the law and rules.

30 Exemption. Amend RSA 375-B by inserting after section 23 the following new section:

375-B:23-a Registration Exemption. Notwithstanding the provisions of RSA 375-B:19-23 or any other law to the contrary, the commissioner of the department of safety shall have authority to waive any requirement for registration of motor vehicles operated by carriers holding authority pursuant to the provisions of RSA 375-B.

31 Effective Date. This act shall take effect July 1, 1988.

AMENDED ANALYSIS

This bill is a request of the department of safety.

The bill changes the title of "safety inspectors" to "highway enforcement officers" in the department of safety.

This bill, as amended, also provides for independent inspectors and agents of the commissioner of safety to inspect carnival or amusement rides.

This bill, as amended, transfers the bureau of common carriers from the department of transportation to the department of safety, and permits waivers of certain registration requirements for carriers under RSA 375-B.

Amendment adopted.

Senator Blaisdell offered a floor amendment.

SENATOR BLAISDELL: This floor amendment is a housekeeping measure that makes it clear that revenues from fines and fees will be put into the general fund as unrestricted revenue. This is very important that we put this through and I ask the Senate's support on this Finance amendment.

Floor Amendment to HB 873

Amend RSA 376:28 as inserted by section 26 of the bill by replacing it with the following:

376:28 Disposition of Revenues. All fees and fines collected pursuant to the provisions of this chapter and RSA 375-B shall be deposited in the general fund as unrestricted revenue, except that the cost of issuance of registration plates shall be paid therefrom to the division of motor vehicles, department of safety.

Amend RSA 375-A:18, II, as inserted by section 18 of the bill by replacing it with the following:

II. The department of safety, division of motor vehicles, shall deduct from the fee received under paragraph I of this section the actual cost of issuing such registration certificates and number plates and shall forward the balance to be deposited in the general fund as unrestricted revenue.

Floor amendment adopted. Ordered to Third Reading.

HB 945, relative to the administrative procedure act. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: HB 945 was heard by the executive departments committee. It deals with the administrative procedures act and basically clarifies existing language in the act.

The amendment deals with emergency rule making authority in the duration of emergency rules.

SENATOR HEATH: Senator, what does it do to the emergency rule making procedure?

SENATOR DUPONT: There was debate that was ongoing relative to the amount of time that emergency rules can be put in to effect. I guess there's an ongoing debate in the committee or among the committee about the impact of emergency rules and the abuse of emergency rules. It's my understanding that what we have in front of us, is basically, the provision specifies that the emergency rules are basically in place to bring the agency into compliance. It's strictly for that purpose.

SENATOR HEATH: So, it will help reduce the abuse?

SENATOR DUPONT: Yes, it will. Having served on rules, I can tell you that that process was used all too often to abuse the authority that we granted in rule making and this clarifies that.

SENATOR NELSON: I would just say that I support Senator Dupont on this. As a member of that committee, he's absolutely correct.

AMENDMENT TO HB 945

Amend the introductory paragraph of RSA 541-A:3-j, I as inserted by section 7 of the bill by replacing it with the following:

I. An agency may adopt as an interim rule any rule which amends an existing rule, repeals an existing rule, or creates a new rule, and which is designed solely to [bring the language of an existing rule into conformity] allow the agency to conform with:

Amendment adopted. Ordered to Third Reading.

HB 639-FN, relative to certification of soil scientists. Ought to Pass with Amendment. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: This is an agreed upon bill. We had three hearings on the subject and have finally gotten an agreement in the form of this amendment. Basically soil science is the application of knowledge to identify, classify and prepare maps delineating soils according to the standards of the National Cooperative Soil Survey. This will be very helpful to our fast growing State as we have to start to use more and more marginal land. We have established a board underneath the joint board of engineers, architects and land surveyors, in the hope that all these people should be talking to each other. We've established qualifications and some grandfathering and some waivers. We've also established a committee to study the visibility of expanding the jurisdiction of this board of natural scientists to see if other related participants want to join.

AMENDMENT TO HB 639-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to certification of soil scientists and
establishing a board of natural scientists.

Amend the bill by replacing all after the enacting clause with the following:

1 New Subdivision; Natural Scientists. Amend RSA 310-A by inserting after section 74 the following new subdivision:

Natural Scientists

310-A:75 Purpose. The general court finds it in the best interests of the citizens of the state of New Hampshire to establish the board of natural scientists and the profession of soil scientists. This certification is to guard the citizens of New Hampshire and the profession

from unqualified practitioners of soil science and to foster intelligent application of the knowledge of soil properties in planning and implementing land use decisions.

310-A:76 Definitions. In this subdivision:

I. "Board" means the state board of natural scientists authorized to certify soil scientists pursuant to this subdivision.

II. "Certified soil scientist" means a person who, by reason of his special knowledge of pedological principles acquired by professional education and practical experience, as specified by RSA 310-A:84, is qualified to practice soil science, and who has been duly certified by the board.

III. "Pedological principles" means, but is not limited to, the taxonomic identification, classification, and morphological description of soils as natural bodies.

IV. "Practice of soil science" means any professional service that requires the application of pedological principles to identify, classify, and prepare maps delineating soils according to the standards of the National Cooperative Soil Survey or other standards approved by the board.

310-A:77 Application. Any person, except as specifically exempted in this subdivision, who practices or offers to practice soil science for the general public in this state shall be subject to the provisions of this subdivision.

310-A:78 Corporations, Partnerships, and Associations. Nothing in this subdivision shall prohibit one or more soil scientists from practicing soil science through a sole proprietorship, partnership or corporation. In any such entity engaged in the practice of soil science at least one partner, officer, or employee shall be a certified soil scientist, and all maps produced in the practice of soil science shall be signed by a certified soil scientist, who shall be responsible for the accuracy of such maps.

310-A:79 Exemption. This subdivision shall not be construed to prevent or to affect:

I. The practice of soil science by a nonresident having no established place of business in this state when such practice does not exceed, in the aggregate, more than 30 working days in any calendar year, provided such person is legally qualified to practice in his own state or country in which the requirements and qualifications for obtaining a certificate are not lower than those specified in this subdivision. Practice for any portion of a day shall be deemed to constitute practice for an entire day.

II. The work of an employee or a subordinate of a person holding a certificate under this subdivision, or any employee of a person practicing lawfully under paragraph I, done under the direct super-

vision of a person holding a certificate under this subdivision or a person practicing lawfully under paragraph I.

III. The practice of officers and employees of the government of the United States or of the state of New Hampshire while engaged within this state in the practice of the profession of soil science for the government.

310-A:80 Reciprocity. A nonresident of this state who is certified as a soil scientist in another state may be certified under this subdivision by filing an application with the board accompanied by a copy of his certification in such other state, and by paying a fee to the board, provided the applicant's qualifications meet the requirements of this subdivision and the rules adopted by the board.

310-A:81 Board of Natural Scientists; Establishment; Expenses.

I. A board of natural scientists is established to administer the provisions of this subdivision. The board shall consist of 5 persons appointed by the governor and council, 4 of whom shall be professional soil scientists, and one public member. The initial professional board members shall meet the educational requirements of RSA 310-A:84, I(a). The public member of the board shall be a person who is not, and never was, a member of the soil science profession or the spouse of any such person, and who does not have and never has had, a material financial interest in either the provision of soil science services or an activity directly related to soil science, including the representation of the board or profession for a fee at any time during the 5 years preceding appointment.

II. Each member of the board shall be a citizen of the United States and shall have been a resident of this state for at least 5 years immediately preceding his appointment. Each of the appointed soil scientist members shall have actively practiced soil science for at least 6 years prior to his appointment and shall have held a responsible position in charge of such work for at least 2 years prior to his appointment, which may include the teaching of soil science.

III. Members shall be appointed for 5-year terms, except that no more than one appointed member's term may expire in any one calendar year. Appointments for terms of less than 5 years may be made in order to comply with this limitation. No appointed member shall be eligible to serve more than 2 full consecutive terms, provided that for this purpose only a period actually served which exceeds $\frac{1}{2}$ of the 5-year term shall be deemed a full term. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 5 years from the date of expiration of his predecessor's appointment, regardless of the date of his appointment. Vacancies occurring prior to the expira-

tion of a specific term shall be filled by appointment for the unexpired term. A board member may be removed for cause by the governor and council under RSA 4:1.

IV. Members of the board shall be reimbursed for mileage at the state employee rate.

V. The board shall hold at least 3 regular meetings each year and special meetings at such times as it may deem necessary. Notice of all meetings shall be given in such a manner as rules adopted by the board may provide. The board shall biennially elect or appoint a chairman, vice-chairman, and secretary. A quorum of the board shall consist of at least 3 members.

VI.(a) The board shall keep a record of its proceedings and a register of all applications for registration, which shall show:

- (1) The name and residence of each applicant.
- (2) The date of application.
- (3) The place of business of such applicant.
- (4) The applicant's educational and other qualifications.
- (5) Whether or not an examination was required.
- (6) Whether the applicant was rejected and the reasons for such rejection.
- (7) Whether a certificate of registration was granted.
- (8) The date of the action of the board.
- (9) Such other information as may be deemed necessary by the board.

(b) The records of the board shall be prima facie evidence of the proceedings of the board, and a transcript of such records certified by the secretary of the board under seal shall be admissible in evidence with the same force and effect as if the original were produced. Biennially, as of December 31 of each even-numbered year, the board shall submit to the governor a report of the transactions of the preceding biennium, and a complete statement of the receipts and expenditures of the board.

VII. The secretary of the board shall publish a roster listing the names and places of business of all soil scientists certified under this subdivision by the board during February of each even-numbered year. Copies of this roster shall be mailed to each person so certified, placed on file with the secretary of state, and furnished to the public upon request at a fee to be established by the board. The board may include in such roster any other information it deems appropriate.

310-A:82 Rulemaking Authority. The board shall adopt rules, pursuant to RSA 541-A, relative to:

I. The application procedure for obtaining a certificate to practice under this subdivision.

II. The qualifications of applicants in addition to those requirements under RSA 310-A:84, including satisfactory evidence of good professional character.

III. How the applicant shall be examined, including the time and place of the examination.

IV. How a certificate to practice under this subdivision shall be renewed, including the requirement for continuing education.

V. The establishment of all fees required under this subdivision as listed in RSA 310-A:92.

VI. Ethical and professional standards required to be met by each holder of a certificate under this subdivision and how disciplinary actions by the board shall be implemented for violations for these standards.

VII. Matters related to proper administration of this subdivision.

310-A:83 Additional Powers. The board shall adopt and have an official seal. The board shall have the power to subpoena witnesses and compel, by subpoena duces tecum, the production of books, papers, and documents in a case involving the revocation of registration. Any member of the board may administer oaths or affirmations to witnesses appearing before the board. Such subpoenas issued by any member of the board or by any justice of the peace shall have the same effect as though issued for appearance before the superior court.

310-A:84 Qualifications for Certification.

I. To be eligible for certification as a soil scientist, a person shall be of high ethical professional standards, have successfully passed an examination designed to determine his proficiency and qualifications to be engaged in the practice of soil science, and shall have one of the following qualifications:

(a) Be a graduate of an accredited 4-year college curriculum leading to a baccalaureate degree, where the applicant successfully completed 30 semester hours in biological, physical and earth science, including 15 semester hours in soil science, and have a specific record of an additional 3 or more years experience in the practice of soil science.

(b) Be a graduate of an accredited college curriculum leading to a baccalaureate or an associate degree, where the applicant has successfully completed 15 semester hours in soil science, and have a specific record of an additional 4 or more years experience in the practice of soil science.

(c) Be a graduate of an accredited college curriculum leading to a baccalaureate or associate degree, and have a specific record of an additional 6 or more years in the practice of soil science.

II. Experience in the practice of soil science shall be of a grade and character that indicates to the board that the applicant is competent to practice as a soil scientist. Experience shall be determined as follows:

(a) Teaching soil science courses or performing research in soil science at an accredited college, university, or institution offering an approved soil science or agronomy curriculum shall be considered as experience in the practice of soil science.

(b) Educational training shall not be considered as experience. Summer employment shall be considered experience for purposes of this section.

(c) Actual field mapping experience in an acceptable apprenticeship program shall count as experience time and shall account for a minimum of one year of the experience requirement.

(d) Each advanced degree in a related field shall be counted as one year of experience.

III. A candidate failing an examination may apply for a re-examination upon payment of an additional fee as determined by the board in its rules and shall be re-examined on the next regularly scheduled semi-annual examination date. A candidate failing the examination 3 consecutive times shall be required to furnish evidence of additional experience, study, or education credits acceptable to the board before being allowed to proceed with the examination.

310-A:85 Apprentice. To be eligible for recognition as an apprentice soil scientist, a person shall have the following qualifications:

(1) Be of responsible character;

(2) Have completed the formal education under RSA 310-A:84, I; and

(3) Be in training to become a certified soil scientist and be engaged in the practice of soil science under the direct supervision of a certified soil scientist who is performing soil science work.

310-A:86 Certification Procedure.

I. Application for certification shall be on forms prescribed and furnished by the board. Such forms shall include the applicant's educational background, including transcripts from educational institutions attended, a detailed work experience history, and such other information as the board may by rule require. All applications shall be signed under oath by the applicant.

II. Applications shall be approved by a majority vote of the board.

III. Any person who has successfully passed the examination or has otherwise qualified as a certified soil scientist or apprentice soil

scientist, shall, upon payment of a fee, be issued a certificate attesting that the applicant is a certified soil scientist or apprentice soil scientist.

310-A:87 Certificates. Certificates shall show the full name of the certified soil scientist or apprentice soil scientist, have a serial number, and be signed by the chairman and the secretary of the board under seal of the board. Each certified soil scientist shall obtain a seal of the design authorized by the board bearing the name of the certified soil scientist, the legend "Certified Soil Scientist", and a place for the certified soil scientist's signature. Plans and reports prepared by a certified soil scientist shall be stamped with the seal and signed by the certified soil scientist during the life of the certificate.

310-A:88 Expiration. A certification shall expire at 12:00 midnight on December 31 biennially.

310-A:89 Certificate Renewal. Certificates may be renewed by written application prior to the expiration date and by payment of the prescribed renewal fee. The secretary shall notify each certified soil scientist or apprentice soil scientist one month prior to expiration of his certificate.

310-A:90 Failure to Renew. Failure to remit the biennial renewal fee when due shall automatically cancel the certification. If properly renewed, a certification shall remain in effect continuously from the date of issuance, unless suspended or revoked by the board for just cause. A person whose certification is cancelled for such failure may reinstate his certification by paying, within one year of cancellation, all fees due, plus a late fee as established by the board.

310-A:91 Waiver. From June 30, 1988, to December 31, 1989, any person engaged in the practice of soil science, as defined in this subdivision, on June 30, 1988, who has actively practiced for at least one year prior to June 30, 1988, may apply to the board for certification without examination. The board shall approve such application, provided the applicant meets the educational requirements under RSA 310-A:84, I(a), (b), or (c).

310-A:92 Fees.

I. The board shall adopt rules under RSA 541-A which establish fees for the following:

- (a) Application for certification without examination.
- (b) Application for certification by reciprocity.
- (c) Application for certification upon examination.
- (d) Biennial renewal for certified soil scientist.
- (e) Application for certification as an apprentice soil scientist.
- (f) Late reinstatement fee for a late renewal.
- (g) Replacement of lost or mutilated certificate.

II. The fees established by the board shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the board for the previous fiscal year.

310-A:93 Disciplinary Action.

I. The board may undertake disciplinary proceedings:

(a) Upon its own initiative; or

(b) Upon written complaint of any person which charges that a person certified by the board has committed misconduct under paragraph II, and which specifies the grounds therefor.

II. Misconduct sufficient to support disciplinary proceedings under this section shall include:

(a) The practice of fraud or deceit in procuring or attempting to procure a certificate to practice under this subdivision.

(b) Conviction of a felony or any offense involving moral turpitude.

(c) Any unprofessional conduct, or dishonorable conduct unworthy of, and affecting the practice of soil science.

(d) Unfitness or incompetency by reason of negligent habits or other causes; or negligent or willful acts performed in a manner inconsistent with the interests of persons relying on the professional expertise of the certified soil scientist.

(e) Addiction to the use of alcohol or other habit-forming drugs to a degree which renders the person unfit to practice under this subdivision.

(f) Mental or physical incompetency to practice under this subdivision.

(g) Willful or repeated violation of the provisions of this subdivision.

(h) Suspension or revocation of a certificate, similar to one issued under this subdivision, in another jurisdiction which was not reinstated.

III. The board may take disciplinary action in any one or more of the following ways:

(a) By reprimand.

(b) By suspension, limitation, or restriction of certificate for a period of up to 5 years.

(c) By revocation of certificate.

(d) By requiring the person to participate in a program of continuing education in the area or areas in which he has been found deficient.

310-A:94 Hearings. The board shall take no disciplinary action without a hearing. At least 14 days prior to a hearing, all parties to a disciplinary proceeding shall be served, either personally or by registered mail, with a written copy of the complaint filed and notice of

the time and place for hearing. All complaints shall be objectively received and fairly heard by the board, but no complaint shall be acted upon unless in writing. A hearing shall be held on all written complaints received by the board within 3 months of the date of notice of a complaint received by the accused, unless otherwise agreed to by the parties. Written notice of all disciplinary decisions made by the board shall be given to both parties to the proceeding upon their issuance. Orders of the board shall be subject to rehearing and appeal in the manner prescribed by RSA 541.

310-A:95 Violations; Penalty. Any person who practices or offers to practice soil science in this state for others without a certificate in accordance with this subdivision, or any person presenting or attempting to use the certificate or seal of another, or any person who gives any false or forged evidence of any kind to the board or to any board member in obtaining or attempting to obtain a certificate, or any person who falsely impersonates any other certified soil scientist, or any person who attempts to use an expired or nonexistent or revoked certificate or authorization, or any person who violates any of the provisions of this subdivision, shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

310-A:96 Restraint of Violations. The superior court shall have jurisdiction in equity to restrain violations of RSA 310-A:95 on proceedings brought by the attorney general, the board, or any society of licensed soil scientists duly incorporated under the laws of this state.

310-A:97 Title. This chapter shall be cited as the "New Hampshire Joint Board of Licensure for Engineers, Architects, Land Surveyors and Natural Scientists".

2 Initial Fees. The fees initially established by the board of natural scientists under RSA 310-A:92 shall be sufficient to produce estimated revenues equal to 125 percent of the estimated direct operating expenses of the board for the remainder of fiscal year 1989.

3 Natural Scientists Added to Joint Board. Amend RSA 310-A:1 to read as follows:

310-A:1 Joint Board Established. There shall be a joint board of engineers, architects, [and] land surveyors, and natural scientists, consisting of each of the members of the board of engineers, board of architects, [and] state board of licensure for land surveyors, and the board of natural scientists. The joint board shall meet at least quarterly to carry out its duties established under this chapter.

4 Study Committee; Regulation of Natural Scientists.

I. There is established a committee to study the advisability of expanding the jurisdiction of the board of natural scientists to include, in addition to soil scientists, other related disciplines. The

committee shall report to the legislature on or before December 1, 1988. The members of the committee shall include:

(a) The commissioner of agriculture, who shall serve as chairman.

(b) A person representing the American Society of Civil Engineers, designated by the society.

(c) A person representing the Consulting Engineers of New Hampshire, designated by such organization.

(d) A person representing the New Hampshire Association of Consulting Soil Scientists, designated by the association.

(e) A person representing the New Hampshire Association of Land Surveyors, designated by the association.

(f) The commissioner of the department of environmental services or his designee.

(g) A person representing the New Hampshire Association of Planners, designated by the association.

(h) A person representing the New Hampshire Association of Conservation Districts, designated by the association.

II. The members of the committee shall serve without compensation.

4 Prohibition Effective. No prohibition established under this act, relating to the practice of soil science without a certificate, shall take effect until 6 months after a quorum of the initial board has been appointed and qualified.

5 Effective Date. This act shall take effect June 30, 1988.

AMENDED ANALYSIS

This bill establishes a regulatory system for professional soil scientists. It defines soil science and the practice of the science. It establishes qualifications for certified soil scientists and apprentice soil scientists.

As amended, the bill makes the board of natural scientists part of the expanded joint board of engineers, architects, land surveyors, and natural scientists.

The bill, as amended, establishes a board of natural scientists to establish certification criteria, approve educational programs, establish certification renewal procedures, set fees for certification and renewal, and enforce the provisions of the new subdivision through hearings and disciplinary actions. The bill establishes penalties for violation of the provisions of the subdivision.

The bill establishes a committee to study the potential regulation of practitioners of other natural sciences which is to report to the legislature by December 1, 1988.

Amendment adopted.

Division vote:

15 Yeas

4 Nays

Ordered to Third Reading.

HB 1061-FN, relative to retaining certain state-owned land overlooking Lake Winnisquam. Ought to Pass with Amendment. Senator Freese for the Committee.

SENATOR FREESE: This bill concerns several parcels of land presently owned by the state, which were initially purchased for the Franklin and Laconia bypass. This bypass has been put on the back burner, as you all know, if the bypass should appear in the future this land would be there under this bill. The bill would remain in state hands and used for the benefit of the general public, but the reason for this bill is because the land is so close to Lake Winnisquam. It's a great natural resource for the state and some thought it would be better, with some public input, that is a very congested area there, too, near the mall, that we might need it for widening of that road. So, I hope that you will consider going along with this because it's a really much needed bill, at least to retain this for a few years to see what's going to happen to the bypass and see what may be needed for that very heavily traveled road and very congested area.

SENATOR DUPONT: Basically, the amendment is a bill that was originally passed by this body and sent over to the House and the House in its wisdom in the public works committee, basically, took the bill and sent it to interim study. I, at this point in time, still don't have a definitive reason why they were uncomfortable with passing this provision of the law. As a result of our hearing on HB 1061 originally, we had a request from a member of the House who represents the Laconia area and, I guess, what we tried to do originally in the bill, that is now amended onto this bill, was to meet a need that they needed at the Laconia Airport as a result of the fact of the airport being also in Gilford. What you have in front of you, I think, answers some needs relative to the future air needs of the state and also some needs of a community that is wrestling with a problem that we originally tried to address in the bill.

SENATOR HOUNSELL: Senator, on page 28 of the calendar, the amendment having to do with the airport property tax base sharing; I remember this issue earlier and although it did pass, I just wanted to restate my concern, and that's with roman numeral I. It says any two or more municipalities or with the approval of Governor and

Council, the state municipality may enter into a cooperative agreement to share all or a specific part of the assessed valuation, etc. My concern then, and I guess it still remains and maybe you can shed some light on it, those communities that own an airport that's based in another community, can they without the approval of the host community get a portion of their tax base by going to the Governor and Council under this?

SENATOR DUPONT: No, they can not Senator. The intent of this, and that provision specifically relates to Sky Haven Airport in Rochester when it says the municipality and the state; that portion would allow the city of Rochester if it decides to allow the construction of airport facilities on state leased land to get the benefits of taxation on that real estate, that's the real property that's built on leased land. The provision that says, any two or more municipalities or with the approval of the Governor and Council is not intended to take away from those communities the ability to negotiate their own deal with another community as to the tax sharing provision.

SENATOR HOUNSELL: I appreciate you, sir, making that statement for the permanent record. Thank you.

AMENDMENT TO HB 1061-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to retaining certain state-owned land overlooking Lake Winnisquam, establishing a committee to study the network of airports operating in New Hampshire and relative to purchasing airports, establishing airport districts, and airport property tax base sharing agreements.

Amend the bill by replacing section 2 of the bill with the following:

2 Committee Established.

I. There is hereby established a committee to study and make recommendations relative to the network of airports operating in New Hampshire. The members of the committee shall be the following:

(a) Two members of the senate, appointed by the senate president.

(b) Two members of the house, appointed by the speaker of the house.

(c) One public member, appointed by the governor.

(d) The director, division of aeronautics, department of transportation, or his designee.

(e) The director of the office of state planning, or his designee.

II. The committee shall select one of its members to act as chairman.

3 Report. The committee shall submit its findings and recommendations to the speaker of the house, the president of the senate, and the governor no later than November 15, 1988, with proposed legislation for the 1989 legislative session.

4 Compensation. The members of the committee shall serve without compensation, except that the legislative members shall receive mileage at the legislative rate when attending to the duties of the committee.

5 Statement of Purpose. The general court recognizes that it is in the public interest for the state to acquire privately owned airports by gift or purchase to protect their future operation as airports. The general court notes that those airports which are open to public use, important to the state's airport system and necessary for regional well-being should be acquired by the state. The general court, therefore, provides in the act for the state's right of first refusal when airports operating in New Hampshire are sold.

6 New Subdivision; Right of First Refusal. Amend RSA 422 by inserting after section 45 the following new subdivision:

Purchase of Privately-Owned Airports

422:46 Purchase Price for Airports. All airports within the state offered for sale by any person after the effective date of this section shall be offered for sale to the state of New Hampshire in the first instance. The state of New Hampshire, acting through the director of aeronautics with the approval of governor and council, shall have a right to match any verifiable bona fide offer made for such airports within the limits of funds available to the director for this purpose.

7 New Subdivision; Airport Districts. Amend RSA 31 by inserting after section 129 the following new subdivision:

Airport Districts

31:130 Purpose. The declared purpose of this subdivision is to enable municipalities to establish airport districts in high density areas of predominantly commercial uses to provide airport services and to authorize the establishment of charges to owners of property within such airport districts in an amount not to exceed the costs to the municipality of providing such services at levels over and above those provided in the balance of the municipality.

31:131 Authority Granted. For the purposes of this subdivision, the legislative body of any city or town shall have the authority to establish an airport district.

31:132 Services Advisory Committee; Cost.

I. The services which may be provided by a municipality in an airport district under the provisions of this subdivision shall be services related to the maintenance and operation of an airport for public use.

II. The legislative body of each municipality electing to establish an airport district shall appoint an advisory board of 7 members, not fewer than 5 of whom shall be owners or tenants of property within the proposed district. Upon consultation with the advisory board, the legislative body of each municipality shall define the airport district, select specific services and levels of services to be provided in the district, and, subject to RSA 31:129, authorize which specific department, agency, or other party is to undertake the work.

III. The costs of providing special services in the airport district shall be those accruing to the municipality which result exclusively from the provision of services in the district which exceed those being provided in the balance of the municipality. The costs of services provided throughout the municipality or available to all properties and the costs of services or levels of services regularly and routinely provided within the central business service district prior to the effective date of this section, may not be included as costs for the purpose of this subdivision. Further, capital expenditures, with the exception of tools and equipment utilized in the normal business practice of and incidental to, the provision of services set forth in paragraph I may not be included as costs for the purpose of this subdivision.

31:133 Method of Appropriation. Each municipality shall adopt a budget for services to be performed in an airport district as part of its budget process. At the end of the fiscal year, a full accounting of expenditures shall be made. Balances or deficits of the airport district account shall be reflected in the subsequent year's account budget to offset appropriation requirements.

31:134 Assessments. Upon local adoption of the budget, the municipality may levy assessments in an amount not greater than the net appropriation to an airport district account. Assessments shall be billed and collected as specified by ordinance. Interest and other collection procedures shall be made by the tax collector or other official responsible for property tax collection. Enforcement powers for nonpayment shall be the same as those provided under RSA 80 relative to property tax collection.

31:135 Airport Aeronautic Fund. All fees, rents and other income generated within an airport district shall be deposited in the airport aeronautical fund established pursuant to RSA 423:6.

8 New Chapter; Tax Base Sharing. Amend RSA by inserting after chapter 423 the following new chapter:

CHAPTER 423-A

AIRPORT PROPERTY TAX BASE SHARING

423-A:1 Purpose. The purpose of this chapter is to increase the possibility of orderly airport development and to provide an incentive for coordinated multicomunity development of airport property within the airport boundary by permitting 2 or more public entities to share their tax bases.

423-A:2 Cooperative Tax Base Sharing Agreements.

I. Any 2 or more municipalities or, with the approval of the governor and council, the state and any municipality may enter into a cooperative agreement to share all or a specific part of the commercial, industrial, or residential assessed valuation located within the airport boundaries.

II. Any such agreement shall specify the following:

- (a) Its duration which shall be 10 years or more;
- (b) A description of the tax base to be shared, including, but not limited to, the type of property, the location of the property and whether it is existing, planned, or future construction.
- (c) The formula for sharing the property taxes generated through taxation of the valuation which is to be shared.
- (d) Any other necessary and proper provisions.

423-A:3 Filing of Agreement. Any agreement entered into pursuant to this chapter shall be filed with the clerk of each municipality, the division of aeronautics, and the secretary of state.

423-A:4 Administration. The shared valuation shall be assessed in the municipality in which the property is located. It shall be taxed at the rate applicable in that municipality. The tax so assessed shall be collected by the municipality in which the property is located. The share of such tax, as specified in the tax base sharing agreement, shall be remitted within 15 days after collection to the other municipality or municipalities on the basis of the terms of the agreement entered into pursuant to RSA 423-A:2.

423-A:5 Arbitration. Any disputes relative to the agreement shall not be the basis of the closure of any airport, airport operations, airport terminal facility or any transportation facility. Such disputes shall be arbitrated by the aviation users advisory board established under RSA 21-L:8, in accordance with RSA 541-A.

9 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill requires the state to retain certain parcels of land running along the shore of Lake Winnisquam that were initially acquired for highway construction. If the land is not used for this purpose, it shall be retained for the benefit of the general public.

This bill, as amended, establishes a committee to study and make recommendations relative to the network of airports operating in New Hampshire.

The bill requires the committee to submit its report together with recommendations for proposed legislation no later than November 15, 1988.

This bill, as amended, allows the state the right of first refusal if privately owned airports are for sale.

The bill also authorizes municipalities to establish airport districts in which services are provided relating to the maintenance and operation of airports for public use. The bill provides that all fees, rents and other income generated within an airport district shall be deposited in the airport aeronautical fund established by the municipality.

The bill also authorizes 2 or more municipalities or, with the approval of governor and council, the state and a municipality to enter into cooperative agreements to share their airport property tax bases.

Amendment adopted. Ordered to Third Reading.

HB 1133-FN, relative to home rule and municipal charters. Ought to Pass with Amendment. Senator Freese for the Committee.

SENATOR FREESE: This bill was requested by the secretary of state to solve a problem existing which is an apparant conflict between the constitution article 39 part 1 and our state RSA 49. The confusion lies in which should apply. With this bill, that conflict should be cleared up. However, as part of the bill we have also established a committee to prepare any necessary guidelines or further legislation, in this matter, should it be needed. There were several amendments offered to this bill, which appeared on the face as to have some validity. However, we felt that it was more important to get this basic bill and the conflict cleared up and have the other matters studied and have legislation brought in at another time, should it be required.

The amendment is on page 54 and basically, this is just spelling out what is really understood in the bill that came to us from the House. We're adding the word mayor to the section that deals with the town counselor and town manager. The committee recommends ought to pass with amendment. We hope you'll support that committee report.

AMENDMENT TO HB 1133-FN

Amend RSA 49-B:2, II as inserted by section 2 of the bill by replacing it with the following:

II. If the proposed charter denominates the municipality as a town, the charter shall designate one of the following forms of town government:

- (a) Board of selectmen - town meeting.
- (b) Town council - town manager and mayor, with or without budgetary town meeting.
- (c) Town council - town manager or mayor, with or without budgetary town meeting.

AMENDED ANALYSIS

This bill specifies that when a town or city presents a municipal charter to its citizens for the purpose of establishing a town or city government, the proposed charter must denominate the municipality either as a city or a town, with a specific form of city or town government. The bill also states that any charter which is adopted shall not conflict with current state law governing elections.

The bill, as amended, also:

- (1) Changes the times within which a charter commission must hold a public meeting and prepare certain reports.
- (2) Changes the time for holding an election to vote on a proposed new charter, revision, or amendment, and the duration of a charter commission.
- (3) Limits the use of special meetings for proposed amendments to charters.
- (4) Requires the secretary of state to review and approve existing municipal charters as well as proposed charters, revisions, and amendments.
- (5) Requires the secretary of state to specify his objections to a proposed charter or charter amendment.
- (6) Amends the language authorizing municipalities to exercise certain powers.

(7) Confers all powers and duties of selectmen on town councils in towns which adopt a town council form of government.

(8) Provides for judicial review of decisions of the secretary of state concerning his approval of municipal charters, revisions, and amendments.

(9) Clarifies the effect of a charter adoption, revision, or amendment on private, special, and general laws.

(10) Authorizes November elections in certain towns.

(11) Establishes a study committee to prepare guidelines or propose legislation to guide municipalities that wish to adopt, revise, or amend charters.

Amendment adopted. Ordered to Third Reading.

HB 1158-FN, relative to extension of the authority of the division of water supply and pollution control relative to safe drinking water. Ought to Pass with Amendment. Senator Disnard for the Committee.

SENATOR DISNARD: This bill authorizes the division of water supply and pollution control to comply with federal statutes. However, there are three amendments that were instituted by the Senate. One is to continue until July 1 the rule making authority; otherwise it'll go out of existence as of this July. Number two, it allows the division of water supply and pollution to adopt rules within the 18 months if they are forced to by federal statutes. And three, this bill, as again amended by the third amendment, requires all public water supplies to annually notify their consumers regarding levels of certain contaminants and bacterial agents in the water. I hope you understand the three amendments.

SENATOR NELSON: Senator Disnard, on page 57, roman numeral II, it says prior to January 1, 1988, shall present proposed legislation of rule making authority. How is it that they haven't had a chance to do it and you're extending it to 89? I just didn't hear you.

SENATOR DISNARD: As I understand it, if we do not do this, the rule making authority will cease after July, 1988. It's just to continue for another year.

SENATOR NELSON: Senator Disnard, when you heard the testimony on this bill, was anyone in there from the department of public health?

SENATOR DISNARD: I wasn't there for the entire hearing, but I'd have to say yes.

AMENDMENT TO HB 1158-FN

Amend RSA 148-B:5, IV as inserted by section 4 of the bill by replacing it with the following:

IV. The division may adopt rules specifying criteria and procedures for requiring public water systems to conduct monitoring programs for contaminants which are not identified in the national primary drinking water regulations, but which have been identified by the administrator of the United States Environmental Protection Agency as "unregulated contaminants." Such rules shall require monitoring of drinking water supplied by the system and shall vary the frequency and schedule of monitoring requirements for systems based on the number of persons served by the system. An unregulated contaminant is one for which no maximum contaminant level or treatment technique has been established under paragraph I or II. In developing such rules, the division shall consider materials submitted by the division of public health services, department of health and human services, pursuant to RSA 125-H:3. Rules adopted under this paragraph shall list unregulated contaminants for which public water systems may be required to monitor. Any list established pursuant to this paragraph shall be consistent with the list of unregulated contaminants identified in regulations promulgated by the administrator of the United States Environmental Protection Agency.

Amend RSA 148-B:8, II(c) as inserted by section 7 of the bill by replacing it with the following:

(c) the public water system was in operation on the earliest effective date, under present or prior law, of the contaminant level or treatment technique requirement. Each exemption shall be conditioned on monitoring, testing, analyzing or other requirements to ensure the protection of the public health, and shall include a compliance schedule under which the public water system will meet each contaminant level or treatment technique for which an exemption is granted as expeditiously as is feasible, but not later than 12 months after the date of issuance of the exemption. The division may extend the final date for compliance provided in any schedule required under this subsection for a period not to exceed 3 years after the date of the issuance of the exemption if the public water system establishes that:

(1) the system cannot meet the standard without capital improvements which cannot be completed within the period of such exemption;

(2) in the case of a system which needs financial assistance for the necessary improvements, the system has entered into an agreement to obtain such financial assistance; or

(3) the system has entered into an enforceable agreement to become part of a regional public water system; and the system is taking all practicable steps to meet the standards.

If a system serves fewer than 500 service connections and needs financial assistance for necessary improvements, an exemption granted under subparagraph (c)(1) or (c)(2) of this subparagraph may be renewed for one or more additional 2-year periods, if the system establishes that it is taking all practicable steps to meet the requirements of any compliance schedule established under this section.

Amend the section heading and amending language of section 8 of the bill by replacing them with the following:

8 Water Quality; Notification. Amend RSA 148-B:9 to read as follows:

Amend RSA 148-B:9, II as inserted by section 8 of the bill by replacing it with the following:

II. Each community public water system shall annually notify each of its users of the results of water quality tests required by RSA 148-B:7. Such notification shall be in the form prescribed by rule adopted by the division, pursuant to RSA 541-A, under RSA 148-B:5, VI. Such notification shall include, but not be limited to, a listing of contaminants identified under rules adopted pursuant to RSA 148-B:5, I, and the results of testing for various bacteriological agents. Where multiple tests have been conducted, a summary or average level of contaminants or biological agents may be provided.

Amend the bill by replacing all after section 13 with the following:

14 Definition of Public Water System. Amend the introductory paragraph of RSA 148-B:1, IX to read as follows:

IX. "Public water system" means a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (2) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. [A public water system is

either a "community water system" or a "non-community water system."] Any water system which meets all of the following conditions is not a public water system:

15 New Paragraph; Definition of Non-transient Non-community Water System. Amend RSA 148-B:1 by inserting after paragraph XI the following new paragraph:

XI-a. "Non-transient non-community water system" means a system which is not a community water system and which serves the same 25 people, or more, over 6 months per year.

16 Rulemaking Authority Extended; Department of Environmental Services. Amend RSA 21-O:13 to read as follows:

21-O:13 Rulemaking Authority.

I. The director of each division of the department of environmental services shall, with the approval of the commissioner, adopt such rules, pursuant to RSA 541-A, as he deems reasonable and necessary in order to properly carry out the functions and responsibilities assigned the particular division under the laws of the state. This rulemaking authority shall expire on July 1, [1988] 1989, at which time this section, unless replaced by a later legislative enactment, shall be deemed repealed.

II. Prior to January 1, [1988] 1989, the commissioner of environmental services, after consultation with the division directors, shall present proposed legislation containing a specific delegation of rulemaking authority to division directors to replace this section to the chairman of the joint legislative committee on administrative rules established under RSA 541-A and to the senate president and the speaker of the house of representatives, who may refer such proposed legislation to the appropriate standing committees. This proposed legislative delegation of rulemaking authority shall be drafted in as narrow a manner as possible, consistent with the need to provide the commissioner of environmental services with sufficient authority to fulfill the regulatory role assigned to him under this chapter and other laws of the state. Notwithstanding the provisions of the joint rules of the house and senate, and subject to the approval of the joint rules committee, legislation prepared under this section shall be permitted to be introduced as a bill into the [1988] 1989 regular session of the general court.

17 Deadline; Implementation of Federal Program. Not later than 18 months from the date the United States Environmental Protection Agency establishes federal criteria for a public drinking water supply filtration program, the division of water supply and pollution control, department of environmental services, may adopt rules pursuant to RSA 148-B:5, V. Not later than 12 months following adop-

tion of such rules, the division shall determine filtration requirements for each public drinking water supply system within its jurisdiction which is supplied by surface waters.

18 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

The bill authorizes the division of water supply and pollution control, department of environmental services, to adopt rules to implement a public drinking water supply filtration system program and a wellhead protection program mandated by amendments to the federal Safe Drinking Water Act.

The program is to include filtration of surface water supplies, a prohibition against lead materials in drinking water pipes, disinfection of all public drinking water supplies, and testing for presently unregulated contaminants.

The bill, as amended, authorizes the division of water supply and pollution control to adopt rules to implement a filtration program within 18 months of the time the federal Environmental Protection Agency adopts criteria for such a program, and to determine filtration levels for each of the state's public surface drinking water supply systems within 12 months of adoption of the state rules.

The bill, as amended, redefines non-community water systems and extends the rulemaking authority of the division directors of the department of environmental services until July 1, 1989.

The bill, as amended, requires public water systems to annually notify their consumers regarding levels of certain contaminants and bacteriological agents in the water supply.

The bill is a request of the department of environmental services.

Amendment adopted. Ordered to Third Reading.

HB 594-FN, relative to victims' assistance and establishing a victims' assistance fund. Ought to Pass with Amendment. Senator McLane for the Committee.

SENATOR MCLANE: This is a bill that encourages counties, through their county attorneys to set up this victims' assistance help and a victims' assistance fund. This money will come from a 3% fee, which is to be assessed on all criminal cases. This is, to us, a very important method of creative funding. The attorney general's office was very strongly for this bill.

AMENDMENT TO HB 594-FN

Amend RSA 651:2, II-f as inserted by section 3 of the bill by replacing it with the following:

II-f. In addition to, and at the same time any fine is assessed, there shall be levied an additional penalty of 3 percent of every fine imposed and collected by the courts for criminal offenses, including any fine or penalty for a violation of title XXI or any municipal ordinance, except for a violation of a municipal ordinance relating to motor vehicles unlawfully left or parked. Where multiple offenses are involved, the penalty assessment shall be based upon the total fine for all offenses. When a fine is suspended, in whole or in part, the penalty assessment shall not be suspended. All such assessments shall be sent monthly by the court to the office of the state treasurer, where the collected fund shall be credited to the victims' assistance fund.

Amendment adopted. Ordered to Third Reading.

HB 811-FN-A, establishing a task force to study the issue of spousal impoverishment of victims of Alzheimer's disease and related disorders and making an appropriation therefor. Ought to Pass with Amendment. Senator Podles for the Committee.

SENATOR PODLES: HB 811 establishes a task force to gather information and study the issue of spousal impoverishment of victims who have been diagnosed as having Alzheimer's disease or a related disorder.

The amendment, on page 16, removes the appropriation so there's no appropriation. It just establishes a task force.

AMENDMENT TO HB 811-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a task force to study the issue of spousal
impoverishment of victims of Alzheimer's
disease and related disorders.

Amend the bill by deleting section 6 and renumbering section 7 to read as6.

AMENDED ANALYSIS

This bill, as amended, establishes a task force to gather informa-

tion and study the issue of spousal impoverishment of victims who have been diagnosed as having Alzheimer's disease or a related disorder.

The task force shall submit its findings together with its recommendations to the speaker of the house, the president of the senate and the governor no later than December 1, 1988.

Amendment adopted. Ordered to Third Reading.

HB 1009-FN, relative to managing tax supported state debt. Inexpedient to Legislate. Senator St. Jean for the Committee.

SENATOR ST. JEAN: Senate Finance is really quite conscious of the debt service as is the rest of the Senate. We are meeting the guidelines of this legislation and we feel that it's redundant at this time and it's not needed.

Adopted.

HB 1056-FN-A, authorizing the payment of bond expenses out of bond proceeds and authorizing the appropriation of funds for such expenses if bond proceeds are insufficient. Inexpedient to Legislate. Senator St. Jean for the Committee.

SENATOR ST. JEAN: Again, another duplicated piece of legislation. It's unneeded and unwarranted in the State at this time.

Adopted.

HB 1180-FN-A, increasing the rate for residents of enhanced family care facilities and making an appropriation therefor. Ought to Pass with Amendment. Senator Delahunty for the Committee.

SENATOR DELAHUNTY: The Senate amendment removes the appropriation, otherwise the bill remains as passed by the House. The department has given authority to set rates according to the severity of the resident's disability and will have to set rates compatible with funds already appropriated.

AMENDMENT TO HB 1180-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

increasing the rate for residents of
enhanced family care facilities.

Amend the bill by deleting section 3 and renumbering section 4 to read as3.

AMENDED ANALYSIS

This bill increases the rate according to the severity of disability for residents of enhanced family care facilities.

Amendment adopted. Ordered to Third Reading.

HB 1182-FN, relative to rate-setting for children's services, and establishing a committee to study rate-setting for health and human services, children, youth and elderly, and education. Ought to Pass with Amendment. Senator McLane for the Committee.

SENATOR MCLANE: This bill calls for an annual review of rate setting for children services and establishes a committee to study rate setting for health and human services. We've all dealt with the enhanced care bill, the family care bill, and all of these other programs that deal with our mentally ill and our developmentally disabled. It was felt that you needed a committee that was not the rate setting office itself to look at all these programs to make sure that they were compatible with each other for rates and to make sure that they were insuring that most of these homes would be happy to take the citizens that used to be at the New Hampshire Hospital and Laconia State School.

AMENDMENT TO HB 1182-FN

Amend RSA 161:2, XVII as inserted by section 7 of the bill by replacing it with the following:

XVII. Review annually the rates established for the purchase of child day care services on behalf of eligible persons. This annual review shall consider the effects of the established rates on current costs, quality and availability of services.

Amendment adopted. Ordered to Third Reading.

HB 606-FN, relative to the lock up of children, the Anna Philbrook Center, and making an appropriation therefor. Ought to Pass with Amendment. Senator Hough for the Committee.

SENATOR HOUGH: The committee recommends passage of this bill, as amended in the Senate Finance. The amendment simply addresses the funding of this bill in the supplemental budget, which you will be hearing this afternoon. This bill, as we pass it, establishes and brings on board the Philbrook Center under the settlement program. It's vitally important and is needed at this time. We recommend that you pass the bill and, as I said, the funding will be taken care of in the supplemental budget.

SENATOR KRASKER: I just want to speak in favor of HB 606 as amended. This was a product of work done in my committee in conjunction with the committee in the House. It's an example, I think, of the committee system when it really works correctly. We had a series of work sessions with all the parties involved. We spent a half a day at the Philbrook Center. We came up with a proposal and I'm glad that's going to be adopted. It's going to provide in-state placements; That's going to be cost effective and has some innovations including the 24-hour placement line that was recommended by the judges. So, we're very glad.

AMENDMENT TO HB 606-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the lock up of children
and the Anna Philbrook Center.

Amend the bill by replacing all after section 11 with the following:

12 Certification of Shelter Care/Detention Beds. On or before December 31, 1989, the division shall certify to the administrative office of the courts of the New Hampshire supreme court 60 geographically distributed shelter care/detention beds. Thereafter, the division shall maintain an appropriate number of shelter care/detention beds, based on the certificate of need formula as established in rules adopted pursuant to RSA 170-G:5.

13 New Paragraph; Release to the Division if No Vacancy in Shelter Care. Amend RSA 169-D:10 by inserting after paragraph II the following new paragraph:

III. Should there be no shelter care/detention bed available, nor an appropriate parent, guardian, or custodian as defined in paragraph II of this section available, the court or the officer taking the child into temporary custody shall notify the division. If the child

cannot be referred to an alternative to secure detention, the court shall make an order authorizing the division to place the child. The division shall then promptly arrange for placement of the child.

14 Effective Date.

I. RSA 169-D:9-b as inserted by section 7 of this act, and section 13 of this act, shall take effect on December 31, 1989, or 60 days after the certification of 60 shelter care/detention beds as provided in section 12 of this act, whichever occurs first.

II. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill adds definitions to the chapters on delinquent children and child caring and placing agencies to clarify the meaning of various terms.

It also provides for the use of alternatives to secure detention when temporarily holding delinquent children or children in need of services.

The bill also makes statutory changes to accommodate the addition of references to alternatives to secure detention.

The bill also adds a provision to prohibit the detention of children in need of services in an adult correctional facility.

The bill provides that the ADC unit be expanded, and the special education program be converted to a 365 day program. To accommodate the expansion of the ADC unit, the bill transfers the use of the Tobey building from the division of mental health and developmental services to the division for children and youth services.

Amendment adopted. Ordered to Third Reading.

HB 765-FN-A, relative to the printing of "New Hampshire Historical Markers", and making an appropriation therefor, and relative to a memorial for governor Sherman Adams. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR: HB 765-FN-A authorizes the expenditure of \$14,000 for printing of a new edition of the "New Hampshire Historical Markers". The funding source has been changed from general funds to being taken from the office of vacation travel funds already appropriated.

AMENDMENT TO HB 765-FN-A

Amend the bill by replacing section 2 with the following:

2 Appropriation.

I. The sum of \$14,000 is appropriated to the division of historical resources, department of libraries, arts and historical resources, for the biennium ending June 30, 1989, for the purposes of preparing a new edition of "New Hampshire Historical Markers", including publication costs, and for preparing a set of slides pertaining to existing markers and historical sites. This appropriation shall be nonlapsing.

II. To provide funds for the appropriation in paragraph I, the department of administrative services shall lapse \$14,000 from the appropriation made to 1987, 400, 1.03,03,02,03 vacation travel promotion class 90, upon the effective date of this act.

AMENDED ANALYSIS

This bill, requested by the division of historical resources, makes an appropriation of \$14,000 for the printing of a new edition of "New Hampshire Historical Markers" to the division of historical resources, department of libraries, arts and historical resources. As amended, funding for the \$14,000 appropriation comes from funds appropriated in the 1987 operating budget to the department of resources and economic development.

The bill, as amended, would make more general the language of the law to establish a memorial for Governor Sherman Adams.

Amendment adopted. Ordered to Third Reading.

HB 773-FN-A, relative to a legal holiday on June 21, 1988, celebrating New Hampshire's role in ratifying the United States Constitution and Fast Day for 1988. Inexpedient to Legislate. Senator Dupont for the Committee.

SENATOR DUPONT: Senate Finance, in its wisdom, thought that the most appropriate way for a true celebration of New Hampshire's ratification of the constitution ought to be that the Governor recommend, the Governor allow all State employees to have a couple of hours off to be able to come over to the State House Plaza and join in the celebration. It was felt that more people would participate as a result of that than would be if the day was given off and no one was in Concord to enjoy that great celebration. Because most of the schools will be out, any school children that want to participate will be able to do so. It is our recommendation that the bill be inexpedient to legislate.

Senator Heath moved to lay HB 773-FN-A on the table.

Adopted.

HB 814-FN, relative to fines imposed by and the staff of the pharmacy board. Ought to Pass with Amendment. Senator Torr for the Committee.

Senator Torr moved to pass over HB 814-FN.

Adopted.

HB 794-A, making capital appropriations and supplemental capital appropriations. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR: HB 794-A, making capital appropriations and supplemental capital appropriations. For the biennium, that amount is \$17,199,000. The major component of that bill is addressing the fifth phase of the five phase project at the prison, which is an amount of \$15.5 million. Other issues concerned in it are the ledge removal of the Piscataquog River, \$38,000, information and sales units for six prime locations in the State of New Hampshire. These units will provide for ski lift pass sales and information relative to tourist trade. This is an amount of \$221,000. Hampton Harbor dredging, which will place the sand back on the beach, for \$350,000, Rye Harbor dredging for \$700,000. There is also a provision in here to prevent dredge material from being dumped on the west side of Route 1-A. Site drainage construction at the Glendale Boat House for \$100,000, which is a reduction of \$25,000. Mount Washington Sewage for \$700,000. The Manchester Airport Highway Study for \$200,000, this is a feasibility study for an easier access to the Manchester Airport. \$40,000 for architectural and design fees for the Fish and Game Department. There will be a floor amendment coming forward for that. \$153,000 for improving the fire protection system and electrical system of the State House, also a floor amendment coming forward for that. A one dollar appropriation for sewer lift station at the YDC and a floor amendment coming forward for that. An authority for the court system to enter in to a long term lease purchase for district courts in the towns of Conway, Jaffrey, Peterborough, for the sum not to exceed two million dollars. An to appropriate \$125,000 for fire standard training, architectural and engineering fees for a new facility, subject to the approval of the fiscal committee.

AMENDMENT TO HB 794-A

Amend the bill by replacing all after the enacting clause with the following:

1 Capital Appropriations. The sums hereinafter detailed are hereby appropriated for the projects specified:

I. Department of Corrections

A. Phase V prison construction	\$15,403,000
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Total appropriation paragraph I	\$15,403,000
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(The appropriation made in paragraph I, A shall not be expended, encumbered, or obligated in any way without the prior approval of an action plan by the capital budget overview committee.)

II. Department of Environmental Services

A. Jolly 7 Rock Excavation - Piscataquog River, Goffstown	\$38,000*
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Total appropriation paragraph II	\$38,000
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III. Department of Resources and Economic Development

A. Visitor information & sales area	\$20,000
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B. Information & sales units	65,000
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Located at the following rest areas -
Hooksett Northbound, Seabrook, Salem -
Cannon Mtn. and Mount Sunapee

C. Computer enhancements, software & hardware to support sales & information system	136,540
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D. Hampton harbor dredging	350,000
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Total appropriation paragraph III	\$ 571,540
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Total state appropriation section 1	\$16,012,540
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* To be 5 year bonds.

2 Bonds. To provide funds for the appropriation in paragraph I of section 1 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$15,403,000 and for said purposes may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

3 Bonds. To provide funds for the appropriations in paragraphs II and III of section 1 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$609,540 and for said purposes may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

4 Payments. The payment of principal and interest of the bonds and notes issued for the projects in section 1 of this act shall be made when due from the general fund.

5 Powers of Governor and Council. The governor and council are hereby authorized and empowered:

I. To cooperate with and enter into such agreements with the federal government, or any agency thereof, as they may deem advisable, to secure federal funds for the purposes hereof.

II. To accept any federal funds which are, or become available, for any project under section 1 beyond the estimated amounts. The net appropriation of state funds for any project for which such additional federal funds are accepted shall be reduced by the amount of such additional funds, and the amount of bonding authorized by sections 2 and 3 shall be reduced by the same amount.

6 Transfers. The individual project appropriations as provided in section 1 shall not be transferred or expended for any other purposes; provided that any anticipated balance remaining in an individual project, which is fully funded by state funds, may be transferred by governor and council to any other individual project or projects, which are also fully funded by state funds, within the same section, provided prior approval of the capital budget overview committee is obtained.

7 Reduction of Appropriation and Bonding Authority. If the net appropriation of state funds for any project provided for in this act is determined on the basis of an estimate of anticipated federal, local, or other funds, and if the amount of such funds actually received or available is less than said estimate, then the total authorized cost for such project and the net appropriation of state funds therefor shall be reduced by the same proportion as the proportion by which federal, local, or other funds are reduced. The amount of bonding authorized by sections 2 and 3 shall be reduced by the amount that the appropriation of state funds is reduced pursuant to this section.

8 Architectural Requirements. No new building authorized by this act shall be constructed without meeting life safety code requirements, handicapped architectural barrier free code requirements, and energy conservation code requirements.

9 Supplemental Appropriation; Rye Harbor Dredging. Amend 1985, 409:1, IX as amended by 1986, 209:1 and 1987, 358:1 to read as follows:

IX. Resources and Economic Development

A. Ski lift renovation and replacement, and
snowmaking and trail improvements -

MT. Sunapee, Cannon Mt.

\$ 3,910,000

B. Coastal projects

1. Hampton, Portsmouth harbor - marine
repairs and dredging

520,000

2. Rye harbor projects	[450,000]
	<u>700,000</u>
Total state appropriation subparagraph B	[970,000]
	\$ 1,220,000
C. Safety modifications and sewage	
Franconia Notch state park	155,000
D. Lodge expansion, water and sewer	
improvements - Mt. Sunapee state park	160,000
E. Building repairs, parking and sewer	
improvements - Wallis Sands state park	290,000
F. Handicapped facilities - state campgrounds	250,000
G. Power and water - state campgrounds	250,000
H. Safety hazards, building and sewer	
repairs Fort Stark	140,000
I. Parking and building repairs	
Franconia Notch state park	<u>170,000</u>
Total state appropriation paragraph IX	[\$ 6,295,000]
	\$ 6,545,000

(A sum not exceeding 1-1/2 percent of the total capital appropriation made in section 1, IX, A, may be utilized for the purpose of contract or in-house engineering services for design, maintenance, and supervision. The appropriation made in section 1, IX, A for the department of resources and economic development shall not be expended, encumbered or obligated in any way without the approval of the capital budget overview committee. The department of resources and economic development shall not dump any dredge materials resulting from the projects authorized in section 1, IX, B, 2 in any areas west of New Hampshire route 1A.)

10 Total Changed. Amend the total state appropriation section 1 as inserted by 1985, 409:1 as amended by 1986, 209:8 and 1987, 358:2 to read as follows:

[\$18,823,620]
\$19,073,620

11 Bonds Authorized; Total Changed. Amend 1985, 409:11, I as amended by 1986, 209:9; 1986, 211:13; 1986, 211:27; and 1987, 399:49 to read as follows:

I. To provide funds for the total of the appropriations of state funds made in sections 1, 2, 3, and 4 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of [\$23,806,620] \$24,056,620 and for said purposes may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

12 Supplemental Appropriations; Department of Safety; Glendale Boathouse. Amend 1986, 211:32, II to read as follows:

II. Repairs and renovations to the boathouse;	
site drainage corrections	[\$75,000]
	\$ 100,000

13 Total Changed. Amend the total amount as inserted by 1986, 211:32 to read as follows:

	[\$393,000]
	\$418,000

14 Bonds Authorized; Total Changed. Amend 1986, 211:33 to read as follows:

211:33 Bonds. To provide funds for the appropriation in section 32 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of [\$393,000] \$418,000 and for said purposes may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

15 Appropriation; Resources and Economic Development; Mt. Washington Sewage. Amend 1987, 399:1, IX, C to read as follows:

C. Mt. Washington - sewage	[\$500,000]
	\$700,000

16 Total Changed. Amend the total state appropriation paragraph IX as inserted by 1987, 399:1 to read as follows:

Total state appropriation paragraph IX	[\$ 1,690,000]
	\$ 1,890,000

17 Total Changed. Amend the total state appropriation section 1 as inserted by 1987, 399:1 to read as follows:

Total state appropriation section 1	[\$48,241,124]
	\$48,441,124

18 Bonds Authorized; Total Changed. Amend 1987, 399:10, I to read as follows:

I. To provide funds for the total of the appropriations of state funds made in sections 1, 2, and 3 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of [\$57,717,049] \$57,917,049 and for said purposes may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

19 Manchester Airport; Highway Study.

I. The general court recognizes that the Manchester airport is the largest airport in New Hampshire and is a critical element in this state's economic growth and well-being. The general court further notes that the planned growth of the Manchester airport will offer both safe and convenient air service for New Hampshire residents and an alternative to Logan Airport. Therefore, access im-

provements to the airport from the highway system must be made to alleviate current congestion and allow for the orderly growth of the Manchester airport area.

II. To accomplish the goals under paragraph I, the department of transportation, with input from the appropriate local communities, shall conduct a study regarding the feasibility of accomplishing the necessary access improvements from the highway system to the Manchester airport. The study shall include, but not be limited to, developing an improvement program and evaluating various funding mechanisms for the access improvements.

20 Report. The department of transportation shall report its findings and recommendations to the speaker of the house, the president of the senate, the chairpersons of the house appropriations and public works committees, and the chairpersons of the senate capital budget and finance committees no later than July 1, 1989.

21 Appropriation. The sum of \$200,000 is hereby appropriated for the biennium ending June 30, 1989, to the department of transportation for the purposes of sections 19 and 20 of this act. This appropriation shall be a charge against the highway fund. The appropriation shall be nonlapsing.

22 Property Purchased by Department of Fish and Game.

I. The proceeds from any sale or disposition of the following described property shall be retained by the department of fish and game to be used to rebuild or relocate the department headquarters:

"Commencing at a stone bound set in the northerly line of Bridge Street, which bound is the northeast corner of land formerly of the Concord Coal Company and the northeast corner of the tract herein conveyed; thence running southerly along land formerly of said Concord Coal Company 260.1 feet to an iron pipe; thence easterly at right angles to said described line 140.2 feet through an iron pipe on the top of the bank of the Merrimack river and thence to mid-river; thence north up the bank of said river to land now or formerly of Blanche N. Lareau and along the westerly line of the land now or formerly of Blanche N. Lareau to a stone bound on the southerly line of said Bridge Street; thence westerly along the line of said street 172.1 feet to the bound begun at."

II. The property described in paragraph I which is located in the city of Concord was purchased in 1953 from the Concord Ice Company, from fish and game funds and not from general fund revenues.

III. The property described in paragraph I shall be appraised twice before a sale takes place, and at least one appraisal shall be made by an appraiser from the private sector. If the property is to be transferred to any other state or municipal agency, the amount of such appraised value shall be credited to the fish and game fund.

IV. Any funds received pursuant to paragraph III shall be applied to the liquidation of any indebtedness occurring from the building or relocation of the fish and game department headquarters.

23 Appropriation; Fish and Game Department. The sum of \$40,000 is hereby appropriated to the fish and game department for the fiscal year ending June 30, 1989, for the following purposes:

I. For surveying costs and other costs of having a deed drawn up, under the direction of the fish and game commission, describing the property on which the new fish and game department headquarters facility on Hazen Drive in Concord is under construction and for the purpose of conveying such property to the fish and game department.

II. For architectural fees and other design study costs for a fish and game department garage and storage facility.

The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

24 Appropriations; Joint Committee on Legislative Facilities. The sum of \$153,000 is appropriated to the joint committee on legislative facilities for the fiscal year ending June 30, 1989, for the purpose of improving the fire protection system and electrical system in the state house. Of this sum, \$100,000 shall be used for construction costs and \$53,000 shall be used for construction fees. This appropriation shall be nonlapsing. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

25 Department of Resources and Economic Development; Odiorne State Park; Ragged Neck. 1987, 399:1, IX, J is repealed and reenacted to read as follows:

J. Odiorne State Park

1. Restore unsafe batteries at Frost Point	40,000
2. Sugden House expansion	100,000
3. New year-round visitor center	800,000
Less sources other than state	<u>-400,000</u>
Net appropriation subparagraph J, 3	400,000
Total appropriation subparagraph J	540,000

(No more than \$100,000 of the funds appropriated by paragraph IX, J, 3, including \$50,000 in state funds and \$50,000 in federal funds, shall be expended or encumbered in any way until the department of resources and economic development certifies to the capital budget overview committee that it has raised and can account for \$350,000 or more in gifts, grants, donations, or pledges from sources other than the state, to be used for the construction of a new year-round visitor center at Odiorne State Park.)

K. Ragged Neck-Shoreline erosion prevention	<u>100,000</u>
Total appropriation subparagraph K	100,000

26 Appropriation; Adjutant General; Roof Repairs - Armories. 1987, 399:1, I, B is repealed and reenacted to read as follows:

B. Roof repairs - 10 armories	\$ 389,380
Less federal	<u>-194,200</u>
Net appropriation subparagraph B	\$ 195,180

27 Appropriation; Fire Standards and Training Commission. The sum of \$125,000 is hereby appropriated to the fire standards and training commission for the purpose of conducting an architectural and engineering study for a new facility. This appropriation shall not be expended, encumbered, or obligated in any way without the prior approval of a plan, outlining the site and future uses for the facility, by the capital budget oversight committee. This appropriation is in addition to any other appropriation to the fire standards and training commission for the biennium ending June 30, 1989, and shall be nonlapsing. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

28 Appropriation; Division for Children and Youth Services. The sum of \$1 is hereby appropriated to the division for children and youth services, department of health and human services, for the purpose of a youth development center sewer project to connect with the Manchester sewage treatment system. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

29 Supreme Court; Lease-Purchase Agreements Authorized.

I. The supreme court is authorized to enter into long term lease-purchase agreements for the construction of district courts in Conway and Jaffrey-Peterborough, for a sum not to exceed \$2,000,000, excluding interest, for land acquisition and construction costs.

II. The supreme court shall include its request for appropriations for the lease-purchases under paragraph I as a separate class line in PAU 02, 01, 06, judicial branch programs, in its operating budget request for the biennium ending June 30, 1991.

30 Effective Date.

I. Paragraph I of section 1 of this act, and sections 2, 4-8, 22 and 23 of this act, shall take effect upon its passage.

II. Sections 19-21 of this act shall take effect 60 days after its passage.

III. The remainder of this act shall take effect July 1, 1988.

Amendment adopted.

Senator Torr offered a floor amendment.

SENATOR TORR: The bill primarily changes some funding sources and other technical changes. The \$40,000 for the Fish and Game storage garage complex is changed from general fund appropriation to a fish and game fund appropriation. The \$153,000 appropriated for the study and work to be done on the State House for electrical and safety improvements changes some technical word language. The major change is the dollar appropriation that was in the primary bill to \$120,000 to be bonded for sewer improvements at the YDC.

Floor Amendment to HB 794-A

Amend paragraph IV of section 22 of the bill by deleting it.

Amend the bill by replacing sections 23 and 24 with the following:

23 Appropriation; Fish and Game Department. The sum of \$40,000 is hereby appropriated to the fish and game department for the fiscal year ending June 30, 1989, for the following purposes:

I. For surveying costs and other costs of having a deed drawn up, under the direction of the fish and game commission, describing the property on which the new fish and game department headquarters facility on Hazen Drive in Concord is under construction and for the purpose of conveying such property to the fish and game department.

II. For architectural fees and other design study costs for a fish and game department garage and storage facility.
This sum shall be a charge against the fish and game fund.

24 Appropriations; Joint Committee on Legislative Facilities. The sum of \$153,000 is appropriated to the joint committee on legislative facilities for the fiscal year ending June 30, 1989, for the purpose of improving the fire protection system and electrical system in the state house. Of this sum, \$100,000 shall be used for construction costs and \$53,000 shall be used for architectural and engineering fees. This appropriation shall be nonlapsing. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

Amend the bill by replacing all after section 27 to read as follows:

28 Appropriation; Division for Children and Youth Services. The sum of \$120,000 is hereby appropriated to the division for children and youth services, department of health and human services, for

the purpose of a youth development center sewer project to connect with the Manchester sewage treatment system.

29 Bonds. To provide funds for the appropriation in section 28 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$120,000 and for said purposes may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

30 Payments. The payment of principal and interest of the bonds and notes issued for the project in section 28 of this act shall be made when due from the general fund.

31 Supreme Court; Lease-Purchase Agreements Authorized.

I. The supreme court is authorized to enter into long term lease-purchase agreements for the construction of district courts in Conway and Jaffrey-Peterborough, for a sum not to exceed \$2,000,000, excluding interest, for land acquisition and construction costs.

II. The supreme court shall include its request for appropriations for the lease-purchases under paragraph I as a separate class line in PAU 02, 01, 06, judicial branch programs, in its operating budget request for the biennium ending June 30, 1991.

32 Effective Date.

I. Paragraph I of section 1 of this act, and sections 21 and 22 of this act, shall take effect upon its passage.

II. Sections 18-20 of this act shall take effect 60 days after its passage.

III. The remainder of this act shall take effect July 1, 1988.

Floor amendment adopted. Ordered to Third Reading.

HB 863-FN, relative to an intrastate computer system within the division of state police to record outstanding arrest warrants for misdemeanors, establishing a police communications specialist position within the division of state police, and making an appropriation therefor. Ought to Pass. Senator Dupont for the Committee.

SENATOR DUPONT: HB 863 is exactly as it was passed by this body before it was sent down to Finance. It deals with a much needed program to be set up at state police to deal with misdemeanors and provides for a position in the department to take care of handling of tracking of outstanding arrest warrants. It's our recommendation that it ought to pass.

Adopted. Ordered to Third Reading.

HB 919-FN, relative to the matching requirements for vocational rehabilitation programs. Ought to Pass. Senator Hough for the Committee.

SENATOR HOUGH: We recommend ought to pass. What this bill does, in fact, is bring State law in compliance with regulation. It has no fiscal impact in this biennium and allows for the rates in the future to be consistent with the requirement of the federal statutes. We recommend ought to pass.

Adopted. Ordered to Third Reading.

HB 1188-FN, establishing age limits for operators of off highway recreational vehicles and amending compliance dates for manufacturers of all terrain vehicles. Ought to Pass. Senator Torr for the Committee.

SENATOR TORR: HB 1188, the bill does not appropriate any money, but the end result is that there may be a cost to the state of roughly \$1,000 for those adults who do not possess a valid driver's license at this point in time. The bill has passed the Senate once already.

Adopted. Ordered to Third Reading.

HB 990-FN-A, relative to maintenance of court facilities and relative to funding for the planning and design of new district court facilities. Ought to Pass. Senator McLane for the Committee.

SENATOR MCLANE: This bill is for the planning of the new Concord district court facility. It allows that the money for such planning shall come out of the court facilities improvement fund and that the court shall be located on state-owned land. It also provides that the division of plant and property management will be responsible for the maintenance of all state-owned court facilities beginning July 1, 1989.

Adopted. Ordered to Third Reading.

HB 826-FN-A, authorizing the hiring of a consultant to review the effectiveness of foundation aid, and making an appropriation therefor, and relative to the teacher shortage study committee. Inexpedient to Legislate. Senator McLane for the Committee.

SENATOR MCLANE: Many of us on the Finance committee were veterans of the long fight over the Augenblick formula and it was the opinion of the committee that we didn't have to study the formula.

The formula wasn't the problem; it is the amount of aid going in to the formula and no amount of studying is going to change that. We felt that to hire a consultant to tell us that was redundant.

SENATOR NELSON: I just want to make clear that we understand, in fact, that it is correct, what Senator McLane said in her report, that we need more money in the formula.

Adopted.

HB 748-FN-A, relative to the division of historical resources, creating the position of state curator, and creating the position of assistant director of state planning and making an appropriation therefor. Ought to Pass. Senator Hough for the Committee.

Senator Hough moved to pass over HB 748-FN-A.

Adopted.

HB 824, relative to AREA school district agreements and relative to staff services to school administrative units, and making an appropriation therefor. Ought to Pass with Amendment. Senator Hough for the Committee.

SENATOR HOUGH: The committee strongly recommends passage of this piece of legislation that establishes positions in the department to work with the supervisory unit school boards. There is tremendous amount of pressure out in the communities with growth and the expansions and the school boards very definitely need a degree of professional expertise and these positions were granted.

The amendment requires that the department accommodate the purposes of this act and the positions within the appropriation budget of their department and we strongly recommend that you pass it as amended.

AMENDMENT TO HB 824

Amend section 4 of the bill by replacing it with the following:

4 Appropriation. The sum of \$130,000 is appropriated to the department of education for the fiscal year ending June 30, 1989, for the purposes of sections 2 and 3 of this act. Said sum shall come from funds already appropriated to the department.

Amendment adopted. Ordered to Third Reading.

HB 845-FN, relative to the department of corrections, and making an appropriation to the department of corrections. Ought to Pass. Senator McLane for the Committee.

SENATOR MCLANE: This was really a housekeeping bill put forward by the department of corrections with several changes to be made in the duties of the medical psychiatric services and having to do with guardianship procedures. The \$18,000 was put in and returned for about \$200,000 that had been returned from a lapsing prison fund.

Adopted. Ordered to Third Reading.

HB 853-FN, relative to the WIC program, and making an appropriation therefor. Ought to Pass with Amendment. Senator McLane for the Committee.

SENATOR MCLANE: This, as many of you know, is the WIC program; a very cost effective and important program. We have amended it to make the appropriation of \$100,000 be absorbed within budget of the division and we urge its passage. It will mean that 500 more women and babies will receive milk and vitamins and that sort of thing that the WIC program does.

AMENDMENT TO HB 853-FN

Amend section 1 of the bill by deleting paragraph III.

Amend the bill by replacing section 2 with the following:

2 Appropriation. There is hereby appropriated the sum of \$100,000 to the division of public health services, department of health and human services, for the fiscal year ending June 30, 1989, for the purpose of providing additional program funding for the WIC program. The funds shall not be used to pay indirect costs and shall come from funds already appropriated to the department of health and human services.

AMENDED ANALYSIS

As amended, this bill appropriates \$100,000 to the division of public health services for fiscal year 1989 to provide additional program funding for the WIC (women, infants and children) nutrition program. Funding for the appropriation comes from funds already appropriated to the department of health and human services.

Amendment adopted. Ordered to Third Reading.

HB 862-FN, relative to solid waste disposal and source reduction and making an appropriation therefor. Ought to Pass. Senator Hough for the Committee.

SENATOR HOUGH: The committee on Finance took a look at this bill in regards to the funding. The fees that are established will offset the appropriation to cover the purposes of this bill. We only looked at the finances and we approve of the methodology and recommend that it be passed. Senator Hounsell dealt with the policy of the bill and it's my understanding he has a floor amendment to take care of a technical correction in the policy part of the bill. As far as the Finance committee is concerned, we recommend ought to pass.

Senator Hounsell offered a floor amendment.

SENATOR HOUNSELL: I was supposed to get this amendment down to Finance. I appreciate the opportunity to bring this in as a floor amendment at this time. On Tuesday, we passed this bill and, under section 16, we gave the municipalities and districts a responsibility to file an annual report. It was the intent of the committee and the intent, I believe, of the Senate to make it biennial. So, the floor amendment changes the word biannual to biennial. Which means there'll be less paper work for the districts to have to move around and we hope you'll support it.

Floor Amendment to HB 862-FN

Amend section 16 of the bill by replacing it with the following:

16 Solid Waste Disposal Plan; Biennial Report. Amend RSA 149-M:19, III to read as follows:

III. Each district and [town] municipality shall be responsible for demonstrating continuous compliance with its plan as approved by the division of waste management. Each district and municipality shall file a biennial report detailing its compliance with the plan submitted under this chapter. Should the division of waste management determine that a district or [town] municipality is not in compliance, it shall issue a remedial order.

AMENDED ANALYSIS

The bill, as amended, establishes a state policy of waste reduction and recycling to address the state's solid waste disposal problem.

The bill requires state agencies to use and purchase products made with recycled material whenever feasible. It also requires municipalities and solid waste management districts to submit solid waste management plans which address solid waste disposal for a period of 20 years.

The bill requires municipalities and solid waste management districts to submit current solid waste management plans to the division of waste management by October 1, 1989. The state will develop plans for those municipalities and districts which do not meet that deadline, and will assess those municipalities and districts 125 percent of the costs incurred by the state in developing such plans.

The bill authorizes the division of waste management to develop a grant program with the university system of New Hampshire to fund a research program in the area of solid waste management. The division is also authorized to coordinate with other states, interstate and federal agencies, and private organizations to develop an effective recycling program.

The bill authorizes the division to establish and administer a solid waste facility operation training program. The bill requires municipalities and solid waste management districts to submit biennial reports on compliance with their solid waste management plans to the division of waste management, and requires the division to review each solid waste management plan at least once every 5 years.

The bill directs each state agency, under the direction of the division of plant and property management, department of administrative services, to develop a comprehensive plan to recycle waste materials.

The bill authorizes the attorney general to take certain investigative and enforcement actions to enforce the provisions of the bill.

The bill increases the fine for violations of the solid waste disposal statutes from \$5,000 to \$25,000.

The bill directs the bureau of solid waste to report on its progress in implementing this bill by December 1, 1988.

The bill establishes a new PAU, and appropriates \$250,000 to the division of waste management to implement the provision of the bill.

Floor amendment adopted. Ordered to Third Reading.

HB 1088-FN-A, establishing pilot child care provider recruitment and training programs, and making an appropriation therefor. Ought to Pass with Amendment. Senator Podles for the Committee.

SENATOR PODLES: HB 1088 establishes a pilot program for child care providers recruitment and training by the division of public health services and the division of human services. It appropriates

\$100,000 to the division of human services and that will come from funds already appropriated to the department.

As amended, it provides 60% of the funds to contract with local non-profit organizations for the purpose of recruiting and training day care providers and 40% to provide and train child care workers in any type of child care facility, such as the tech institute, the school for lifelong learning, and the UNH system and also Notre Dame. The committee recommends ought to pass with amendment.

AMENDMENT TO HB 1088-FN-A

Amend paragraph II of section 2 of the bill by replacing it with the following:

II.(a) Sixty percent of the funds appropriated for this program shall be used to contract with local nonprofit organizations concerned with the well-being of children, for the purpose of recruiting and training family day care providers.

(b) Forty percent of the appropriated funds shall be used to provide and train center-based personnel to meet the minimum licensing criteria for child care workers in any type of child care facility. This training shall be purchased through existing educational programs.

Amend section 3 of the bill by replacing it with the following:

3 Appropriation. The sum of \$100,000 is appropriated to the division of human services for the biennium ending June 30, 1989, for the purpose of section 2 of this act. This appropriation shall be funded from funds already appropriated to the department of health and human services.

AMENDED ANALYSIS

This bill provides for the establishment of joint programs for the recruitment and training of child care providers by the division of public health services and the division of human services.

It also makes an appropriation of \$100,000 for 1989 biennium for the establishment of the program, which shall come from funds already appropriated to the department. As amended, the bill specifies how the appropriation shall be apportioned between local nonprofit organizations which train family day care providers and funding for training of child care workers.

Amendment adopted.

SENATOR HOUNSELL: I rise in opposition to the motion that is before us at this time. I do so perhaps because I don't understand fully what the bill does. I do have some concerns about this, but after talking with Senator Podles and Senator McLane, I think they might be able to prove further to me that this might be a good thing to do. But, at this time, I can't support this. I have withdrawn my amendment which was to somehow bring this to my level of understanding. At this time I'd like to have someone stand up and tell me what this bill will do and how it will actually help, if, in fact, it will help.

SENATOR MCLANE: Senator Podles and I feel that we have tried to explain what the division would do with this money. We now have a very clearly written explanation and I would be happy to lay this bill on the table until we can get this typed up and mimeographed for the Senate. I think it would be very helpful to everyone. We'll do it at third reading, to try and explain it if Senator Hounsell wishes it.

Senator Hounsell moved to lay HB 1088-FN-A on the table.

Division vote:	9 Yeas	12 Nays.
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Motion lost.

Question: Ought to Pass.

Adopted. Ordered to Third Reading.

HB 1112-FN-A, relative to the Head Start program and making an appropriation therefor. Ought to Pass with Amendment. Senator Hough for the Committee.

SENATOR HOUGH: The committee took this specific piece of legislation into consideration and we would tell you that, of the bills outside of the supplemental budget, this bill was one of those that had our highest priority. We have amended the bill, as you will find on page 31, and the amendment now stands at \$225,000. It is an appropriation to the division of human resources and the executive department and the figure is based on our staff's investigation and analysis, which would indicate that this portion would be for the salary incremental portion of the bill relative to the staff at day care. We recommend that you pass the amendment and pass the bill.

SENATOR BOND: I understand how much thought and concern Finance put into HB 1112. I have to call your attention; I did not have the opportunity to present the facts that I had available on the head start program to Finance and that concerns me. So, I just want

you to know what the impact will be if we do adopt this amendment. I have been told that there will be an effort, if there is negotiation, to put some of this back and I sincerely hope that that is so. Right now in the town of Winchester, there are ten homebound children eligible for head start who receive no services because of the lack of funds. The lack of funds is caused by the 3% increases on the federal level which in the federal budget is an attempt to pass the cost of head start back to the states. We are the only state that does not fund any part of head start at the moment. In Keene, there are 54 children who do not have transportation. Now, many of those are receiving services because they are within walking distance, many of them are handicapped and are not able to get to school without the transportation provided. In Claremont, there are some 36 who are now denied transportation. I should explain that out of the \$434,000 requested in this bill, \$114,000 was for transportation. The various contractors for head start are free to disburse their funds as they see fit. In the north country they take lower wages and put more into transportation, partly because transportation is so critical. The rural children get no services if there is no transportation. In Claremont and Keene, the trend has been more towards salary because it's been impossible to get people unless you pay the salary. So, they've had to cut back on their transporting in order to cover the salaries. Of the \$320,000, which was in the bill to cover the salary, it was actually leveled funding from last year. The 3% cost increase on the federal level doesn't even keep up because in the Keene office, Blue Cross/Blue Shield went up \$12,000, while the federal funding only goes up \$11,000. So, they're actually suffering a net loss. I just want to make you aware that when you talk about transportation, that's not going out and buying vans. In the north country, somebody has donated the used vans that were used on the Mount Washington Auto road to the tri-county community action program, so they would have transportation for head start. This is a very basic program. You're not spending money; you're investing money. Every dollar you spend today on a child in head start is \$7.00 down the pike that you're not spending on special education, that you're not spending on YDC. I urge you consider that when you vote on the pending amendment.

SENATOR JOHNSON: Senator Bond, listening to your proposition, are you delivering the message that we may be penny-wise and pound foolish in this reduction?

SENATOR BOND: Senator Johnson, I'd say that was a good characterization.

SENATOR HOUGH: I urge that you adopt the committee amendment. You must bear in mind that this is new general fund appropriations that we are talking about. The committee sent its LBA staff back in to the department to do an analysis of this piece of legislation and the appropriation and it is your committee on Finance's judgement, based on that information, that a supplemental appropriation of new general fund dollars into the department of human resources will allow for them to provide a greater level of support back out through the communities. That's the basis on which we passed our judgement; it may be penny-wise and pound foolish, but there are a lot of those considerations regrettably that we have had to make, given the constraints of available revenue for supplemental appropriations. I urge you to adopt the committee report and pass the legislation.

AMENDMENT TO HB 1112-FN-A

Amend the bill by replacing section 4 with the following:

4 Appropriation. There is hereby appropriated the sum of \$225,000 to the division of human resources, executive department, for the fiscal year ending June 30, 1989, for the purpose of funding New Hampshire's Head Start program staff salaries. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

AMENDED ANALYSIS

This bill, as amended, makes an appropriation of \$225,000 to the division of human resources, executive department, to supplementally fund New Hampshire's Head Start program. These funds would be used to maintain staff salaries at a competitive level.

The division is given authority to distribute these funds according to the federal regulations governing the Head Start program.

Amendment adopted. Ordered to Third Reading.

HB 1162-FN-A, relative to AIDS education, prevention and control and making an appropriation therefor and relative to testing for the AIDS virus for insurance purposes. Ought to Pass with Amendment. Senator Torr for the Committee.

Senator Blaisdell moved to pass over HB 1162-FN-A.

Adopted.

HB 1163-FN-A, relative to nursing home care costs paid by counties. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR: HB 1163-FN-A is a bill that would have provided for a former change for reimbursements by the counties to the state for public assistance to recipients in nursing homes, from a 61.5% to 55% county share at a cost of \$2.3 million. The amendment changes that formula by one percent to 60.5% county share at a cost of \$383,000.

AMENDMENT TO HB 1163-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

relative to nursing home care costs paid by counties and
relative to nursing home grants for the department
of health and human services.

Amend the bill by replacing all after the enacting clause with the following:

1 Reimbursement of Funds for Recipients in Nursing Homes. Amend RSA 167:18-b to read as follows:

167:18-b Reimbursement of Funds for Recipients in Nursing Homes. All expenditures in carrying out the purposes of this chapter or RSA 161 relative to old age assistance or aid to the permanently and totally disabled recipients who are in nursing homes shall be made in the first instance from the public assistance fund hereby created, but each political subdivision shall make monthly payments to the state for the amounts due under this section within 30 days from notice thereof and shall reimburse said fund for all assistance granted to persons for which such political subdivision is liable, to the extent of [61.5] 60.5 percent of the non-federal share, except that no charges shall be made for the non-federal share for recipients in state institutions and intermediate care facilities for the mentally retarded (ICF-MR) serving developmentally impaired persons approved by the division of mental health and developmental services.

2 Supplemental Appropriation; Department of Health and Human Services. Amend the totals and estimated sources of funds for 1987, 400:1.05,02,04,05,06 to read as follows:

Total	69,130,635	71,103,002
Estimated Source of Funds for Nursing Home Grants		
00 Federal Funds	35,450,133	35,587,889
05 Private and Local Funds	20,713,508	[21,841,794]
		21,458,175
General Fund	12,966,994	[13,673,319]
		14,056,938
Total	69,130,635	71,103,002

3 Totals Adjusted. The legislative budget assistant is authorized to adjust all totals as made necessary by section 2 of this act.

4 Effective Date. This act shall take effect July 1, 1988.

AMENDED ANALYSIS

As amended, this bill reduces from 61.5 percent to 60.5 percent the share which counties must reimburse the state for public assistance to recipients in nursing homes.

As amended, the bill also adjusts the fiscal year 1989 appropriation to the department of health and humans services for nursing home grants.

Amendment adopted. Ordered to Third Reading.

HB 1204-FN-A, establishing a grant-in-aid program to provide temporary emergency shelter for the destitute, establishing the affordable housing fund, and establishing a low and moderate income housing loan program, and making appropriations therefor. Ought to Pass with Amendment. Senator Dupont for the Committee.

SENATOR DUPONT: The amendment to HB 1204 appropriates a half million dollars for the biennium for the purchases of the emergency shelter program, which would be capital construction, rehabilitation, operation. It provides four million dollars of bonding for the affordable housing fund, which allows the New Hampshire Housing Authority to purchase and rehabilitate and construct housing for low and moderate persons by contracting with a variety of organizations. Finally, it provides a half a million dollars bonded for a loan program to assist low and moderate income persons to purchase homes.

SENATOR PRESTON: I rise to support the pending legislation, but just for the record I'd like to make it very clear that there were House bills incorporated into this piece of legislation before us. If you will look at the sponsors of the piece of legislation before you,

you'd think this idea originated from a Republican caucus somewhere. This was an idea, frankly, generated by Democrats and I'm pleased to see that the Democrats and Republicans alike have joined in bipartisan and supported this in the Senate, but I don't want the impression conveyed, I want to make it a matter of the record, that Republicans alone don't sponsor this idea. Most of it originated in the House and some of the very wording came from a piece of legislation sponsored by Representative King and others. So, I join with the Majority Leader today in passing this piece of legislation.

AMENDMENT TO HB 1204-FN-A

Amend the bill by replacing section 2 with the following:

2 Appropriation. The sum of \$500,000 is hereby appropriated for the biennium ending June 30, 1989, to the division of mental health and developmental services, department of health and human services, for the purposes of RSA 126-A:43-c and RSA 126-A:43-d. These funds shall be nonlapsing. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

Amend RSA 204-C:65, I as inserted by section 10 of the bill by replacing it with the following:

I. Such funds as the general court may specifically appropriate from time to time to the authority may be loaned to eligible low and moderate income persons or families for the purpose of making down payments on single family homes. Such loans shall not be in excess of \$10,000 to any individual and shall be repaid at interest rates determined by the authority, provided that such interest rates shall not exceed the New York prime interest rate. The appropriations made for purposes of this section and loan repayments, including interest, together with any funds which the authority may allocate from time to time to this program, and funds derived from profit sharing under RSA 204-C:66, shall constitute a continuing revolving loan fund. The state's and the authority's interest in such property shall be protected by a lien or in such other manner as is acceptable to the authority. The authority shall require the applicant to invest personal funds, to the extent available, to ensure the applicant's commitment to the property purchased.

Amend RSA 204-C:65, III as inserted by section 10 of the bill by replacing it with the following:

III. The interest rate and terms of repayment for loans made under this subdivision shall be determined by rules adopted by the authority under RSA 204-C:68. The authority shall periodically re-determine a loan recipient's income level and shall base repayment procedures and interest rates on this redetermination. Redetermination of income shall be based on examination of a recipient's federal income tax return. Failure to supply a copy of such tax return upon request by the authority shall make the loan made under this subdivision immediately due and payable. In the event that any applicant experiences a substantial increase in his income or assets, he shall, subject to the interest rate established under RSA 204-C:65, I, be subject to a sliding scale interest rate to be determined under rules adopted by the authority.

Amend RSA 204-C:66 as inserted by section 10 of the bill by replacing it with the following:

204-C:66 Sale of Property. The authority and the low or moderate income person shall enter into a contract providing that if the property is sold, the loan provided under this program shall be immediately due and payable. The authority shall determine the profit made from the sale, if any. If the property is sold, profit sharing shall be based on the difference between the original sale price of the housing unit and an independent appraisal of fair market value. If the property is sold within 3 years of the transfer of the deed, 50 percent of the profit shall be distributed to the authority and 50 percent to the low or moderate income person. If the property is sold 3 years or more from the transfer of the deed, 25 percent of the profit shall be distributed to the authority and 75 percent to the low or moderate income person.

Amend RSA 204-C:68, V as inserted by section 10 of this bill by replacing it with the following:

V. Procedures for the identification of profit and for profit sharing.

Amend RSA 204-C:68, VII as inserted by section 10 of the bill by replacing it with the following:

VII. What constitutes a substantial increase in income or assets under RSA 204-C:65, III.

Amend the bill by replacing all after section 10 with the following:

11 Appropriation. The sum of \$500,000 is hereby appropriated to the New Hampshire housing finance authority for the fiscal year ending June 30, 1989, for the purposes of section 10 of this act. This appropriation shall be nonlapsing. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

12 Bonds Authorized. To provide funds for the appropriation made in section 11 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$500,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest of the bonds and notes shall be made from the general funds of the state.

13 Effective Date. This act shall take effect July 1, 1988.

AMENDED ANALYSIS

This bill establishes an emergency shelter program for the purpose of making available additional emergency shelter facilities and maintaining them. Under this bill, the general court may specifically appropriate funds which are to be granted to private nonprofit organizations on an equal matching grant formula basis for use in renovating buildings for temporary emergency shelter facilities. These funds may also be used to provide additional beds, maintenance, and essential services for existing shelters.

The bill, as amended, establishes a commission to advise the director of the division of mental health and developmental services on matters relating to the emergency shelter program. The initial members of the commission shall consist of the current members of the task force on homelessness established by 1987, 113:2.

The bill appropriates \$500,000 for the biennium to the division of mental health and developmental services, department of health and human services, for the purposes of this program.

This bill establishes an affordable housing fund within the New Hampshire housing finance authority for the purpose of funding the development of housing for low and moderate income people. The fund will be administered by the New Hampshire housing finance authority, which will review applications, contracts, and policies for the fund. Moneys for the fund will come from developers' fees, repayments of loans from the fund, and donations. The bill appropriates \$4,000,000, which shall be received in 2 installments, to the housing financing authority for the fund, and authorizes the treasurer to issue bonds to provide these funds.

The bill establishes and appropriates \$500,000 to the authority for the purposes of a low and moderate income housing loan program.

Amendment adopted. Ordered to Third Reading.

HB 847-FN-A, relative to indigent defense and making an appropriation therefor. Ought to Pass with Amendment. Senator Hough for the Committee.

SENATOR HOUGH: The committee on Finance has amended HB 847-FN-A. The amendment is on page 17. As you recall, this is the subject of the indigent defense. Now, when we get to the supplemental budget you will see that we handled the funding source in that vehicle. You'll also recall that within the last week, I believe, we passed a supplemental emergency appropriation to allow the present bills on hand to be paid through the end of April. The balance of the funding gets us through this fiscal year and it also, this is what your amendment addresses, establishes a verification of need component out in the various catchment areas throughout the State. What the amendment establishes, and the funding is in the budget, is a position whereby people who find themselves in trouble with the law and entitled to counsel present their demand to a person. That person verifies their eligibility and there are also means for, after having received counsel in their trial, if possible, the state to, in a timely basis, recover some of the expense. We spent a great deal of time on this amendment. It is another attempt for accountability. We have had both our staff and the attorney general's people look at this. It is their opinion that this does not deny people their rights; it does stand the test of constitutionality. So, that's what the basic amendment does.

The floor amendment is, again, a technical change that the LBA found in the last few hours that had to be made. We recommend that you pass the committee amendment, then adopt the floor amendment and understand that the subject of indigent defense will appear later in the supplemental budget as to the funding source.

SENATOR WHITE: I was concerned when I looked through the amendment, but I did find it in the budget. I strongly support the amendment that Senate Finance has proposed, because I think we, at some point, have to get a handle on the indigent defense program. All you have to do is watch TV now. The person accused of killing the two girls in Manchester is appealing to have his lawyer funded out of this program. So, I think somehow we have to get a handle on who is

using it, why is it being used and are they indeed needy so that they have to be funded by the State. So, I strongly support the committee amendment.

AMENDMENT TO HB 847-FN-A

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Alternate Public Defender Program. Amend RSA 604-B by inserting after section 7 the following new section:

604-B:8 Alternate Public Defender Program. The state of New Hampshire by the judicial council and with the approval of the governor and council may, in addition to the contract for the public defender program referred to in RSA 604-B:4, contract for an alternate public defender program to represent indigent defendants in circumstances where, because of conflict of interest or otherwise, the public defender program is unable to provide representation to a defendant. The alternate public defender program and the contract between it and the state shall be governed by the provisions of this chapter.

2 Arraignment. Amend RSA 625:9, VI to read as follows:

VI. Prior to or at the time of arraignment, the state may, in its discretion, charge any offense designated a misdemeanor, as defined by paragraph IV, as a violation. At such time, the prosecutor shall make an affirmative statement to the court as to whether he intends to proceed under this paragraph. In such cases the penalties to be imposed by the court shall be those provided for a violation under RSA 651:2. This paragraph shall not apply to any offense for which a statute prescribes an enhanced penalty for a subsequent conviction of the same offense.

3 Pilot Program; Indigent Defense. It is the intent of the general court that RSA 604-A:9 be implemented to the fullest extent possible and that all fees and costs provided by the state on behalf of an indigent defendant which are recoverable shall be recovered. Therefore, the general court establishes a pilot program to be administered by the commissioner of administrative services. This pilot program shall terminate on June 30, 1989, unless authorized to continue by the legislature. In order to implement this pilot program the commissioner of administrative services shall:

I. Be responsible for determining eligibility of defendants for the public defender program, contract counsel, and assigned counsel.

II. With the approval of the attorney general, adopt rules, pursuant to RSA 541-A, governing eligibility determinations, the method for pre-qualification, forms to be executed under oath subject to the

penalties of perjury, the actual process to be followed relative to eligibility determinations, and any other matters regarding eligibility he deems necessary to fully implement sections 3 and 4 of this act. These rules shall apply to defendants who claim eligibility for the public defender program, contract counsel, and assigned counsel.

III. Make a decision relative to a defendant's eligibility and a recommendation to the court in regard to the defendant's ability to pay all or a portion of the costs incurred for counsel. Within 7 days of the commissioner's decision on eligibility and his recommendation relative to the defendant's ability to repay the state, the defendant shall have the right to appeal to the court having jurisdiction of the alleged offense if he disagrees with the commissioner's findings. In the event that the court rejects, overrules, or modifies the commissioner's decision or recommendation, the court shall enter an order with written findings specifically outlining why the commissioner's decision or recommendation was not sustained. The court shall give the defendant an opportunity to be heard and shall render its decision within 7 days of the filing of the appeal.

IV. Be responsible for collections from all persons found to have the ability to make either partial or full repayment, with the exception of those persons on parole or probation, and have oversight power relative to the commissioner of corrections' collections efforts from those persons on parole or probation.

V. With the approval of the attorney general, the commissioner shall adopt rules, pursuant to RSA 541-A, with regard to determination of repayment schedules, financial and credit investigations, oversight of collections from persons on parole or probation, and other matters related to collections procedures which he deems necessary to fully implement sections 3 and 4 of this act.

4 Temporary Positions Authorized for Pilot Program. The department of administrative services is authorized to employ full-time temporary case technicians to administer the pilot program established in section 3. The commissioner of administrative services shall assign the case technicians on a county basis and may assign one or more individuals to more than one county based upon frequency of requests for indigent defense.

5 PAU Note Deleted; Department of Administrative Services. Amend 1987, 400:1.01, 04, 01, 02, 04 to read as follows:

01 General Government

04 Department of administrative services

01 Office of the commissioner

02 Budget office

04 Indigent defenders

	<i>FY 88</i>	<i>FY 89</i>
50 Other personal services	30,000	30,000
60 Benefits	2,145	2,253
90 Assigned counsel F	450,000	316,000
91 Public defender program F	3,000,000	3,300,000
92 Contract counsel F	750,000	374,927
Total	4,232,145	4,023,180
Estimated source of funds for Indigent defenders		
General fund	4,232,145	4,023,180
Total	4,232,145	4,023,180

[It is the intent of the general court that RSA 604-A:9 be implemented to the fullest extent possible and that all fees and costs provided on behalf of an indigent shall be recovered and continually appropriated to the indigent defense program.

The department of administrative services is hereby authorized to enter into percentage of collection contracts to recover fees and costs provided on behalf of an indigent.]

6 Applicability. The provisions of sections 3 and 4 of this act shall supercede any conflicting provisions of RSA 604-A until the pilot program terminates.

7 Effective Date.

I. Section 2 of this act shall take effect January 1, 1989.

II. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill allows the judicial council, with the approval of governor and council, to contract for an alternate public defender program to represent indigent defendants in circumstances where, because of conflict of interest or otherwise, the public defender program is unable to provide representation to the defendant.

The bill also requires the prosecutor, in cases where a charge for a criminal offense is reduced from a misdemeanor to a violation to make an affirmative statement of this reduction of charge at the time of arraignment.

This bill, as amended, establishes an indigent defense pilot program to be administered by the commissioner of administrative services. The intent of the program is to recover all fees and costs paid by the state on behalf of indigent defendants which are recoverable. The program will expire on June 30, 1989, unless it is authorized to continue by the legislature.

Amendment adopted.

Senator Hough offered a floor amendment.

Floor Amendment to HB 847-FN-A

Amend the bill by replacing section 4 with the following:

4 Temporary Positions Authorized for Pilot Program. The department of administrative services is authorized to establish and fill full-time temporary positions to administer the pilot program established in section 3. The commissioner of administrative services shall assign the individuals hired for these positions on a county basis and may assign one or more individuals to more than one county based upon frequency of requests for indigent defense.

Floor amendment adopted. Ordered to Third Reading.

HB 1162-FN-A, relative to AIDS education, prevention and control and making an appropriation therefor and relative to testing for the AIDS virus for insurance purposes. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR:HB 1162-FN-A provides for AIDS education, prevention and control and for testing. The amendment deals with a few technical changes in addition to a design of a form to provide for medical interpretations of positive and negative testing, findings and disclosure of test results and for the purpose of the test results to be used. Further, it provides for AIDS victims to be treated like any other person with blood abnormalities. The amendment that we'll be dealing with on the floor in a few minutes is relative to the finances.

AMENDMENT TO HB 1162-FN-A

Amend paragraphs II and III of section 1 of the bill by replacing them with the following:

II. Any materials, courses and programs distributed, developed, or provided by the division shall stress that abstinence or a monogamous relationship and avoiding drugs are the most effective ways to prevent contracting the human immunodeficiency virus.

III. The general court declares that the policy of this state shall be to protect its citizens to the fullest extent possible in a manner consistent with the rights of the individual. The general court intends to address these problems in a manner consistent with its state policy by implementing the following procedures:

(a) To identify and provide at the earliest possible time the resources needed to minimize and control the spread of the human immunodeficiency virus; and

(b) To coordinate the educational and detection efforts of the state through the division of public health services, department of health and human services.

Amend the introductory paragraph of RSA 141-F:5 as inserted by section 2 of the bill by replacing it with the following:

141-F:5 Informed Consent for Testing; Exceptions. Except as provided in this section, no physician or advanced registered nurse practitioner licensed or registered to practice in this state, no employee of a health care facility licensed under RSA 151, whether paid or unpaid, and no employee of a blood bank, blood center, plasma center, or agency which receives blood donations, whether paid or unpaid, may test for the presence of an antibody or antigen to a human immunodeficiency virus unless the person being tested consents after being informed about the medical interpretations of positive and negative test findings and the applicable provisions of RSA 141-F:7 and 141-F:8. Testing without consent may occur in the following situations:

Amend the bill by replacing section 8 with the following:

8 Appropriation. The sum of \$442,416 for the biennium ending June 30, 1989, is hereby appropriated to the division of public health services, department of health and human services, for the purposes of this act. This appropriation shall be nonlapsing. This appropriation shall come from funds already appropriated to the department of health and human services. Representatives of the department of

health and human services shall appear before the joint fiscal committee not later than July 31, 1988, to inform the committee of the department's proposals to fund and implement the provisions of this act.

Amend RSA 417:4, XIX(a) as inserted by section 9 of the bill by replacing it with the following:

(a) No person may test any individual in connection with an application for insurance for the presence of an antibody or antigen to a human immunodeficiency virus unless such individual gives written consent on a form designed by the director, division of public health services, department of health and human services, with consultation and approval by the commissioner of insurance. The form shall contain information about the medical interpretations of positive and negative test findings, disclosure of test results, and the purpose for which the test results may be used.

Amend RSA 417:4, XIX(c) and (d) as inserted by section 9 of the bill by replacing them with the following:

(c) In the event of a serologic positive test result, a person who tests for the presence of an antibody or antigen to a human immunodeficiency virus may disclose the test results only to:

(1) the individual tested;

(2) such other person or entity as the individual tested may authorize by written consent to receive the test results, which consent shall be clearly identifiable as part of the form described in subparagraph (a) of this paragraph.

(d) Notwithstanding the provisions of subparagraph (c), if the test results are positive or indeterminate and the individual tested has not given written consent authorizing a physician to receive the test results, such individual shall be urged, at the time the individual is informed of the positive or indeterminate test results, to contact the director, division of public health services, department of health and human services, for appropriate counseling.

Amendment adopted.

Senator Torr offered a floor amendment.

SENATOR TORR: The amendment reaffirms the policy decision of the Senate Finance whereby funds may be expended in the fiscal year of 1988. The sum of the appropriation is for \$442,000.

Floor Amendment to HB 1162-FN-A

Amend the bill by replacing section 8 with the following:

8 Appropriation. The sum of \$442,416 for the biennium ending June 30, 1989, is hereby appropriated to the division of public health services, department of health and human services, for the purposes of this act. This appropriation shall be nonlapsing. Notwithstanding RSA 99:4, the positions established by this act shall be funded by the salary adjustment fund. The balance of the appropriation shall be funded from such sums previously appropriated to the department of health and human services but not expended in fiscal year 1988. Such sum shall not lapse on July 1, 1988. Representatives of the department of health and human services shall appear before the joint fiscal committee not later than July 31, 1988, to inform the committee of the department's proposals to fund and implement the provisions of this act.

Floor amendment adopted. Ordered to Third Reading.

Senator Chandler wished to be recorded as opposed.

HB 748-FN-A, relative to the division of historical resources, creating the position of state curator, and creating the position of assistant director of state planning and making an appropriation therefor. Ought to Pass. Senator Hough for the Committee.

Senator Hough offered a floor amendment.

SENATOR HOUGH: The floor amendment that you have in front of you is consistent with the position of the Senate Finance committee and the agreements that we have established a position of state curator within the department of library, arts and historical resources. It also allows them the ability to accept grants. That's all it does and that's all the intent of the Finance committee in agreement with the House that they wish to adopt. We recommend the floor amendment and passage of the bill.

Floor Amendment to HB 748-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the division of historical resources,
creating the position of state curator, and
making an appropriation therefor.

Amend the bill by replacing all after section 7 with the following:

8 Appropriations. There is appropriated the sum of \$25,000 for the fiscal year ending June 30, 1989, to the department of libraries, arts and historical resources to be used for the salary of the state curator. This sum shall be in addition to any available federal matching funds. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

9 Effective Date. This act shall take effect July 1, 1988.

AMENDED ANALYSIS

The bill, as amended, creates the position of state curator within the division of historical resources, department of libraries, arts and historical resources and appropriates \$25,000 for fiscal year 1989 to be used for the salary for the position. That sum is to be augmented with federal matching funds.

The bill also clarifies specific functions of the division of historical resources relative to objects of historical significance and makes the director of the division of historical resources responsible for the location and care of memorial objects at certain sites.

Floor amendment adopted. Ordered to Third Reading.

HB 814-FN, relative to fines imposed by and the staff of the pharmacy board. Ought to Pass with Amendment. Senator Torr for the Committee.

SENATOR TORR: HB 814-FN provides for the appropriation of \$45,000 to be used for hiring of personnel. That expenditure would be offset by the pharmacy board having to raise their fees.

AMENDMENT TO HB 814-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to fines imposed by and the staff of the pharmacy
board, and relative to making an appropriation
to the pharmacy board.

Amend the bill by replacing section 4 with the following:

4 Pharmacy Board Appropriation.

I. The sum of \$45,280 is appropriated to the pharmacy board for the fiscal year ending June 30, 1989. This sum shall be in addition to any other funds appropriated to the pharmacy board. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

II. The pharmacy board shall raise its fees in an amount sufficient to recover the sum appropriated in paragraph I.

5 Effective Date.

I. Sections 1-3 of this act shall take effect 60 days after its passage.

II. Section 4 of this act shall take effect July 1, 1988.

AMENDED ANALYSIS

As amended, this bill authorizes the board of pharmacy to employ one person to serve as executive secretary to perform the administrative functions of the board.

As amended, the bill also authorizes the board of pharmacy, as part of its disciplinary powers, to impose fines on licensees and permit holders or on licensees or permit holders for misconduct.

As amended, the bill appropriates \$45,280 to the pharmacy board for fiscal year 1989. The pharmacy board must raise its fees to recover the sum appropriated.

Amendment adopted.

Senator Delahunty offered a floor amendment.

SENATOR DELAHUNTY: All the amendment does is it gives the pharmaceutical board the opportunity to raise revenues to support its habit from all revenue sources instead of one specific source.

Floor Amendment to HB 814-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to fines imposed by and the staff of the pharmacy board, and relative to making an appropriation to the pharmacy board.

Amend the bill by replacing section 4 with the following:

4 Pharmacy Board Appropriation.

I. The sum of \$45,280 is appropriated to the pharmacy board for the fiscal year ending June 30, 1989. This sum shall be in addition to

any other funds appropriated to the pharmacy board. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

¶ II. The pharmacy board shall recover the sum appropriated in paragraph I from any and all revenue sources which are available to the board.

5 Effective Date.

I. Sections 1-3 of this act shall take effect 60 days after its passage.

II. Section 4 of this act shall take effect July 1, 1988.

AMENDED ANALYSIS

As amended, this bill authorizes the board of pharmacy to employ one person to serve as executive secretary to perform the administrative functions of the board.

As amended, the bill also authorizes the board of pharmacy, as part of its disciplinary powers, to impose fines on licensees and permit holders or on licensees or permit holders for misconduct.

As amended, the bill appropriates \$45,280 to the pharmacy board for fiscal year 1989. The pharmacy board must recover the sum appropriated from any and all revenue sources which are available to the board.

Floor amendment adopted. Ordered to Third Reading.

HB 1129, making supplemental operating budget appropriations, amending the operating budget, and making certain other appropriations. Ought to Pass with Amendment. Senator Blaisdell for the Committee.

SENATOR BLAISDELL: I'm going to be very brief, but before I get into it I want to thank the staff of the LBA's office, Charlie Connor and his staff, they worked until yesterday morning at quarter of six in the morning before they left this State House to get this in our hands so that we could take a look at it before we stand on the floor today.

This, members of the Senate, is going to go to a committee of conference. I'll be very happy to go through any of the sections. I've got an hour's presentation if you'd like. If you'd like to have me go through any section that you want to talk about, I'd be very glad to. The staff is here. I ask your support and I ask consideration to pass it.

CHAIR: We'd also like to thank Jill Adams and Debbie McLeod who stayed late.

SENATOR BLAISDELL: Most definitely.

SENATOR HOUNSELL: Senator Blaisdell, I understand that you and your committee worked very hard and, talking with some of your members, it seems as though that this supplemental budget, something that I haven't liked the idea of before, seems to be the thing to do because we have obligations. My question to you is when you get into the committee of conference, are we going to be able to hold the line, what I think you have is an appropriate figure?

SENATOR BLAISDELL: Senator Hounsell, the other morning when we went into Finance, we adopted, along with the Senate's concurrence, the revenue projections of the Senate Finance committee; we explained them to you here on the floor of the Senate. Two or three times during the day and way into the late evening, as we were looking to pass other pieces of legislation, we discussed going back and maybe revising the revenue estimates. We didn't do it, so this is what Senate Finance has brought to you. This is a Senate position and I would hope that we would be able to hold it. There may be some adjustments, but as you remember in HB 400 last year, we cut back quite a bit of funding and I would think that we would be able to hold this to the best of our ability. We'll try, Senator.

SENATOR WHITE: I concur with everything that has been said in regards to the needs that are out there and have to be met. My only concern is that I think it's unfortunate, on page 53 of the amendment, that we had to decrease those funds that we had in the capital reserve fund. We put those in there and last year we thought that we were going to have all of this revenue and now we're spending the money that we were setting aside last year. I just think that's regrettable that this is how we have funded the supplemental budget, is out of the capital reserve fund. I just wonder what's going to happen in the future and I would hope that Senate Finance would stick to at least only using these surplus funds in those two years and not cave in in a committee of conference and go back to that 50% that we used from the fiscal year 1987. We try to be a prudent state and that's the problem with annual sessions; all you do is spend money when you come back and there is going to be a time ahead of us when our revenues aren't going to be as rosy. We're committing the funds today which will be back in before us again and we just have to hope that our revenues are up to match it because we used a roll-over surplus. But, I am concerned that we're having to use that capital reserve fund and I hope that the Senate will stand tight in the committee of conference.

SENATOR PRESTON: Senator Blaisdell, the other day you indicated that you had some 42 million plus dollars in requests and that you had available an estimated twelve million dollars. Can you stand on the Senate floor today and tell us that you live within available funds and at the same time address some of the concerns that you had?

SENATOR BLAISDELL: Senator Preston, we told you on the Senate floor that we have twelve and a half million dollars in funds available out of Senate Finance. We've already spent two million dollars, so we have available to us about ten million dollars, which you'll find in the supplemental budget.

SENATOR DUPONT: I just want to rise in support of what Senator White said relative to the capital reserve fund. I think all of us in Senate Finance felt bad that, in order to meet the state's commitments at this point in time, we had to do away with that provision of the law. Without making that adjustment to the capital reserve fund for 1988, we would not have been able to even fund the existing programs that need additional monies. I think what's more important is that the Senate today, when they vote, we are making a commitment that the 1987 reserve stays in place and is used for the purposes of which it was originally designed to be used and, hopefully, in the future, Senator White, we can go back to that provision of the law that allows us to use surpluses for that specific purpose. So, you have Senate Finance's assurances that, without doing what we did, we would not have been able to meet our commitments and that was the only reason that it was done.

SENATOR WHITE: Senator Blaisdell, the only other problem I had is do you believe that that's constitutional? Section 18-A in the constitution, second part, indicates that we can not amend statutes in a budget bill. Do you feel that we have abided by that constitutional provision?

SENATOR BLAISDELL: Talking with the LBA's office, they've cleared this through it, Senator White. I know your concerns, but they have cleared it. You do know that seven million dollars are left in that fund, too, you know that.

SENATOR WHITE: Ok, good. I just wanted to be sure.

AMENDMENT TO HB 1129

Amend the bill by replacing all after the enacting clause with the following:

1 Supplemental Appropriation; Department of Administrative Services; Indigent Defenders. Amend 1987, 400:1.01,04,01,02,04 to read as follows:

01 General government

04 Dept of administrative services

01 Office of the commissioner

02 Budget office

04 Indigent defenders

50 Other personal services	30,000	30,000
60 Benefits	2,145	2,253
90 Assigned counsel	[450,000]	[316,000]
	766,000	283,750
91 Public defender program	3,000,000	[3,300,000]
		3,912,242
92 Contract counsel	[750,000]	[374,927]
	1,124,927	336,662
93 Pilot collection program	-0-	179,588
Total	[4,232,145]	[4,023,180]
	4,923,072	4,744,495
Estimated source of funds for indigent defenders		
General fund	[4,232,145]	[4,023,180]
	4,923,072	4,744,495
Total	[4,232,145]	[4,023,180]
	4,923,072	4,744,495

It is the intent of the general court that RSA 604-A:9 be implemented to the fullest extent possible and that all fees and costs provided on behalf of an indigent shall be recovered and continually appropriated to the indigent defense program

The department of administrative services is hereby authorized to enter into percentage of collection contracts to recover fees and costs provided on behalf of an indigent.

Supplemental Appropriation; Office of Emergency Management.

I. There is appropriated to the office of emergency management, for the biennium ending June 30, 1989, the sum of \$750,000 for the purpose of providing matching funds for flood damage costs.

II. To provide funds for the appropriation in paragraph I of section 2 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$750,000 and

for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. The payment of principal and interest of the bonds and notes so issued shall be made when due from the general fund.

3 Supplemental Appropriation; Department of Corrections. Amend 1987, 400:1.02, 16, 03, 01, classes 20, 50, and 94 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
20 Current expenses	[45,795] 54,795
50 Other personal services	[320,000] 491,000
94 Other expenditures	[125,000] 152,000

4 Totals and Funding Sources Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.02, 16, 03, 01 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
Total	[7,073,489] 7,280,489
Estimated source of funds for Bureau of security	
09 Industries reimbursement	36,000
General fund	[7,037,489] 7,244,489
Total	[7,073,489] 7,244,489

5 Supplemental Appropriation; Department of Corrections. Amend 1987, 400:1.02, 16, 03, 02, 01, classes 20 and 90 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
20 Current expenses	[1] 44,001
90 Stockroom supplies	[70,815] 93,815

6 Totals and Funding Sources Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.02, 16, 03, 02, 01 for fiscal year 1988 to read as follows:

Total	[288,415] 355,415
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Estimated source of funds for administration

General fund	[288,415]
	355,415
Total	[288,415]
	355,415

7 Supplemental Appropriation; Department of Corrections. Amend 1987, 400:1.02, 16, 03, 02, 02 class 21 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
21 Food institutions	[846,360]
	936,360

8 Totals and Funding Source Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.02, 16, 03, 02, 02 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
Total	[1,181,882]
	1,271,882
Estimated source of funds for Kitchen	
General fund	[1,181,882]
	1,271,882
Total	[1,181,882]
	1,271,882

9 Supplemental Appropriation; Department of Corrections. Amend 1987, 400:1.02, 16, 03, 02, 05, class 90 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
90 Clothing	[105,600]
	121,100

10 Totals and Funding Sources Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.02, 16, 03, 02, 05 to read as follows:

	<i>FY 1988</i>
Total	[234,256]
	249,756
Estimated source of funds for laundry	
General Fund	[234,256]
	249,756
Total	[234,256]
	249,756

11 Supplemental Appropriation; Department of Corrections. Amend 1987, 400:1.02, 16, 03, 02, 10 class 93 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
93 Outside Medical Services	[376,000]
	476,000

12 Totals and Funding Source Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.02, 16, 03, 02, 10 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
Total	[890,693]
	990,693
Estimated source of funds for medical and dental	
General fund	[890,693]
	990,693
Total	[890,693]
	990,693

13 Supplemental Appropriation; Department of Corrections. Amend 1987, 400:1.02, 16, 04, 01 class 20 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
20 Current expenses	[169,378]
	189,878

14 Totals and Funding Source Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.02, 16, 04, 01 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
Total	[2,405,013]
	2,447,513
Estimated source of funds for bureau of district offices	
General Fund	[2,405,013]
	2,447,513
Total	[2,405,013]
	2,447,513

15 Reduced Appropriation; Department of Environmental Services. Amend 1987, 400.1.03, 04, 02, 01, 01 class 92 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
92 Clearing and dredging D	[15,000]
	11,700

16 Totals and Funding Sources Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.03, 04, 02, 01, 01 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
Total	[683,365]
	680,065
Estimated source of funds for Water resources board	
02 Transfer from DOT	26,486
09 Agency income	5,304
General fund	[651,575]
	648,275
Total	[683,365]
	680,065

17 Supplemental Appropriation; Department of Environmental Services. Amend 1987, 400:1.03, 04, 01 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
03 Resource protection and development	
04 Dept of environmental services	
01 Office of the commissioner	
10 Personal services - permanent	90,467
11 Commissioners salary	57,376
12 Assistant commissioner *	48,732
20 Current expenses	[12,500]
	29,200
30 Equipment	[44,996]
	66,996
60 Benefits	41,281
70 In-state travel	900
80 Out-of-state travel	[3,000]
	5,000
90 State geology program	71,400

* A portion of these funds may be utilized to reimburse the U.S. Environmental Protection Agency in the event that an intergovernmental personnel assignment agreement is negotiated to staff this position pursuant to RSA 98-B:6, V and RSA 98-D:7. These funds cannot be transferred or expended for any other purpose.

Total	[370,652]
	411,352
Estimated source of funds for Office of the commissioner	
General fund	[370,652]
	411,352
Total	[370,652]
	411,352

18 Supplemental Appropriations; Department of Environmental Services. Amend 1987, 400:1.03, 04, 03, 01, 01 for fiscal year 1988 to read as follows:

03 Resource protection and development
 04 Dept of environmental services
 03 Division of water pollution control
 01 Water pollution program
 01 Pollution control program

	<i>FY 1988</i>
10 Personal services - permanent	1,263,069
11 Salary of director	54,450
20 Current expenses *	84,350
24 Maint other than bldg & ground	2,300
28 Transfers to general services	[93,186]
	83,186
30 Equipment	48,100
40 Indirect costs E	38,475
41 Audit fund set aside D	700
50 Other personal services	38,000
60 Benefits	279,396
70 In-state travel	[30,000]
	47,000
80 Out-of-state travel	3,000
90 State aid grants	[12,435,089]
	12,185,089
93 Contractual	46,000

* Included in this appropriation is the sum of approximately \$1,100 each year to cover the cost of marine insurance.

Total	[14,370,115]
	14,173,115

Estimated source of funds for pollution control program	
OO water pollution	367,272
General fund	[14,002,843]
	13,805,843
Total	[14,370,115]
	14,173,115

19 Supplemental Appropriation; Department of Environmental Services. Amend 1987, 400:1.03, 04, 03, 07 class 70 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
70 In-state travel	[40,000]
	62,500

20 Totals and Funding Sources Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1, 03, 04, 03, 07 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
Total	[1,224,447]
	1,246,947
Estimated source of funds for Subsurface waste disposal	
General fund	[1,224,447]
	1,246,947
Total	[1,224,447]
	1,246,947

21 Totals and Funding Sources Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.04, 01, 04, 04, 03 to read as follows:

	<i>FY 88</i>	<i>FY 89</i>
Total	80,878	80,189
Estimated source of funds for Federal rail safety		
OO federal funds	[40,439]	[40,095]
	11,587	-0-
General fund	[40,439]	[40,094]
	69,291	80,189
Total	80,878	80,189

22 Supplemental Appropriation; Department of Transportation. Amend 1987, 400:1.04, 01, 06 to read as follows:

	<i>FY 88</i>	<i>FY 89</i>
04 Transportation		
01 Department of transportation		

06 Debt service

44 Debt service

(other agencies)	[6,517,370]	[5,767,300]
	9,110,848	7,956,420
Total	[6,517,370]	[5,767,300]
	9,110,848	7,956,420
Estimated source of funds for Debt service		
Highway funds	[6,517,370]	[5,767,300]
	9,110,848	7,956,420
Total	[6,517,370]	[5,767,300]
	9,110,848	7,956,420

23 Supplemental Appropriation; Port Authority. Amend 1987, 400:1.04, 05, 01 class 80 to read as follows:

80 Out-of-state travel	[3,976]	[4,011]
	5,476	6,011

24 Totals and Funding Sources Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.04, 05, 01 to read as follows:

	<i>FY 88</i>	<i>FY 89</i>
Total	[148,635]	[129,608]
	150,135	131,608
Estimated source of funds for Administration		
General fund	[148,635]	[129,608]
	150,135	131,608
Total	[148,635]	[129,608]
	150,135	131,608

25 Notation Changed. Amend 1987, 400:1.02, 15, 01, 01, 01 class 48 to read as follows:

	<i>FY 88</i>	<i>FY 89</i>
48 Cont. maint		
Bldgs & grounds	[G] 100,500	
	F	

26 Supplemental Appropriation; Department of Health and Human Services; Division of Public Health Services. Amend 1987, 400:1.05, 02, 02, 03, 05 to read as follows:

05 Health and social services

02 Department of health and human services

02 Division of public health services

03 Disease prevention and control

05 Vaccination program

10 Personal services		
- permanent	90,068	94,176
20 Current expenses	53,378	51,675
28 Transfers to general services	7,816	7,969
40 Indirect costs E	24,356	24,356
41 Audit fund set aside D	204	200
50 Other personal services	8,900	8,900
60 Benefits	19,550	21,387
70 In-state travel	2,850	2,850
80 Out-of-state travel	2,000	2,000
90 Vaccines*	300,000	500,000
Total	[209,122]	[213,513]
	509,122	713,513
Estimated source of funds for vaccination program		
00 Federal funds	97,617	97,612
General fund	[111,505]	[115,901]
	411,505	615,901
Total	[209,122]	[213,513]
	509,122	713,513

*It is the intent of the state government that vaccines purchased with these funds shall be provided to children without cost.

27 Supplemental Appropriation; Department of Health and Human Services; Division for Children and Youth Services. Amend 1987, 400:1.05, 02, 03, 02, 07 for fiscal year 1988 to read as follows:

05 Health and social services

02 Department of health and human services

03 Division for children and youth services

02 Bureau of children

07 DCYS - settlement

	<i>FY 1988</i>
90 DCYS settlement	[16,419,437]
	21,510,211
Total	[16,419,437]
	21,510,211

Estimated source of funds for DCYS - settlement

00 Federal funds [600,000]

05 Private or local funds	[3,954,858]
	5,322,783
General fund	[11,864,579]
	16,187,428
Total	[16,419,437]
	21,510,211

28 Reduced Appropriation; Department of Health and Human Services. Amend 1987, 400:1.05, 02, 04, 05, 01 for fiscal year 1988 to read as follows:

05 Health and social services

02 Department of health and human services

04 Division of human services

05 Grants

01 Financial grants

41 Audit fund set aside	[22,295]
	21,345

90 AFDC	[21,759,854]
	19,859,854

Total	[21,782,149]
	19,881,199

Estimated source of funds for Financial grants

00 Federal funds	[11,169,868]
	10,218,918

09 Agency income	1,051,848
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General fund	[9,560,433]
	8,610,433

Total	[21,782,149]
	19,881,199

29 Reduced Appropriation; Department of Health and Human Services. Amend 1987, 400:1.05, 02, 04, 05, 02 for fiscal year 1988 to read as follows:

05 Health and social services

02 Department of health and human services

04 Division of human services

05 Grants

02 OAA APTD grants

90 OAA grants	984,197
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91 APTD grants	[5,610,600]
	4,530,600

Total	[6,594,797]
	5,514,797

Estimated source of funds for OAA APTD grants

05 Private and local funds	[3,297,398]
	2,757,398
09 Agency income	20,000
General fund	[3,277,399]
	2,737,399
Total	[6,594,797]
	5,514,797

30 Supplemental Appropriation; Department of Health and Human Services; Division of Human Services. Amend 1987, 400:1.05, 02, 04, 05, 05 for fiscal year 1988 to read as follows:

05 Health and social services

02 Department of health and human services

04 Division of human services

05 Grants

05 Medical grants

41 Audit fund set aside	[39,008]
	40,475

90 Provider payment	[38,071,497]
	41,005,974

Total	[38,110,505]
	41,046,449

Estimated source of funds for Medical grants

00 Federal funds	[19,543,036]
	21,011,741

05 Private and local funds	[2,613,240]
	2,543,638

09 Agency income	153,000
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General fund	[15,801,229]
	17,338,070

Total	[38,110,505]
	41,046,449

31 Supplemental Appropriation; Department of Health and Human Services. Amend 1987, 400:1.05, 02, 04, 05, 06 for fiscal year 1988 to read as follows:

05 Health and social services

02 Department of health and human services

04 Division of human services

05 Grants

06 Nursing home grants

41 Audit funds set aside	D	[70,759]
		73,606
90 Nursing Homes		[69,059,876]
		74,753,511
Total		[69,130,635]
		74,827,117
Estimated source of funds for nursing home grants		
00 Federal funds		[35,450,133]
		38,299,798
05 Private and local funds		[20,713,508]
		22,464,300
General fund		[12,966,994]
		14,063,019
Total		[69,130,635]
		74,827,117

32 Reduced Appropriation; Postsecondary Education Commission. Amend 1987, 400:1.06, 01, 01 classes 20, 30, and 96 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
20 Current Expenses	[21,326]
	29,966
30 Equipment	[5,000]
	6,363
96 Spec'l Student Grant-Veterinary	[233,500]
	213,503

33 Totals and Funding Sources Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.06, 01, 01 for fiscal year 1988 to read as follows:

Total	[2,468,738]
	2,458,744
Estimated Source of Funds for Administration & Financial Aid	
00 NH Incentive Program	275,000
09 Nursing schlrshp repayment	7,600
General Fund	[2,186,138]
	2,176,144
Total	[2,468,738]
	2,458,744

34 Supplemental Appropriation; Department of Education; Building Aid. Amend 1987, 400:1.06, 03, 02, 04, 02 for fiscal year 1988 to read as follows:

06 Education

03 Department of Education

02 Office of Administration

04 Financial Aid to Districts - State

02 Building Aid

90 Building Aid	[7,928,360]
	8,184,360
Total	[7,928,360]
	8,184,360

Estimated Source of Funds for Building Aid

General Fund	[7,928,360]
	8,184,360

Total	[7,928,360]
	8,184,360

35 Supplemental Appropriation; Department of Education.
Amend 1987, 400:1.06, 03, 03, 03, 01 for fiscal year 1988 class 92 to
read as follows:

	<i>FY 1988</i>
92 Catastrophic Cost	[5,529,782]
	6,297,574

36 Totals and Funding Sources Adjusted. Amend the totals and
estimated sources of funds for 1987, 400:1.06, 03, 03, 03, 01 for fiscal
year 1988 to read as follows:

Total	[6,266,374]
	7,034,166

Estimated source of funds for special education - state

General fund	[6,266,374]
	7,034,166

Total	[6,266,374]
	7,034,166

37 Supplemental Appropriation; Department of Education.
Amend 1987, 400:1.06, 03, 04, 01, 03 to read as follows:

06 Education

03 Department of Education

04 Division of Standards and Certification

01 Standards and Certification

03 School Volunteer Program/Comm Ed. Ctr

90 Contracted Services	40,254	[40,254]
		60,254

Total	40,254	[40,254]
		60,254

Estimated Source of Funds for School
Volunteer Program/Comm Ed. Ctr

General Fund	40,254	[40,254] 60,254
Total	40,254	[40,254] 60,254

38 Transportation; Rent and Moving Expense. Amend 1987, 400:1.04,01,05,01 class 23 to read as follows:

23 Rent and moving expense	* F	6,000
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39 Transportation; Grants. Amend 1987, 400:1.04,01,05,01 class 97 to read as follows:

97 Grants-joint state and federal ***	F	100,000	100,000
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40 Transportation; Federal/State Projects. Amend 1987, 400:1.04,01,05,02,01 class 90 to read as follows:

90 Federal/state projects	F	1,900,000	1,900,000
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41 Supplemental Appropriation; New Hampshire Retirement System. In addition to any other sums appropriated to PAU 01,10,01, the sum of \$26,707 is hereby appropriated to the following classes for the fiscal year ending June 30, 1989.

	<i>Fiscal Year 1989</i>
10 Personal Services-Permanent	\$20,241
30 Equipment	2,013
60 Benefits	4,453
Total	26,707
Estimated source of funds for Administration	
09 Retirement adm	26,707
Total	26,707

42 Notation Added; Legislature; Data Processing Needs. Amend 1987, 400:1.01, 02, 01, 03, 01 class 91 for fiscal year 1988 to read as follows:

91 Data processing needs *	<i>FY 88</i> 500,000
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* The funds appropriated for class 91 shall be nonlapsing.

43 Supplemental Appropriation; Department of Revenue Administration. Amend 1987, 400:1.01, 07, 01, 01, classes 30 and 70, for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
30 Equipment	[22,060]
	54,060
70 In-state travel	[12,240]
	5,840

44 Totals and Funding Source Adjusted. Amend the totals and estimated source of funds for 1987, 400:1.01, 07, 01, 01 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
Total	[467,414]
	493,014
Estimated source of funds for Administration	
General fund	[467,414]
	493,014
Total	[467,414]
	493,014

45 Reduced Appropriation; Department of Revenue Administration. Amend 1987, 400:1.01, 07, 01, 03, class 70, for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
70 In-state travel	[36,379]
	23,379

46 Totals and Funding Source Adjusted. Amend the totals and estimated source of funds for 1987, 400:1.01, 07, 01, 03 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
Total	[885,729]
	872,729
Estimated source of funds for Property appraisal	
07 Property appraisal	436,007
General fund	[449,722]
	436,722
Total	[885,729]
	872,729

47 Reduced Appropriation; Department of Revenue Administration. Amend 1987, 400:1.01, 07, 02, 01, class 70, for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
70 In-state travel	[22,956]
	17,956

48 Totals and Funding Source Adjusted. Amend the totals and estimated source of funding for 1987, 400:1.01, 07, 02, 01 to read as follows:

	<i>FY 1988</i>
Total	[1,890,785]
	1,885,785
Estimated source of funds for Audit division	
General fund	[1,890,785]
	1,885,785
Total	[1,890,785]
	1,885,785

49 Reduced Appropriation; Department of Revenue Administration. Amend 1987, 400:1.01, 07, 02, 02, class 70, for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
70 In-state travel	[16,550]
	8,950

50 Totals and Funding Sources Adjusted. Amend the totals and estimated source of funding for 1987, 400:1.01, 07, 02, 02 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
Total	[482,858]
	475,258
Estimated source of funds for Collection division	
General fund	[482,858]
	475,258
Total	[482,858]
	475,258

51 Supplemental Appropriation. The sum of \$1,552,584 for the fiscal year ending June 30, 1989, is hereby appropriated to the division for children and youth services, department of health and human services, for the purposes of HB 606, if enacted, and to facilitate the hiring of 2 full-time night youth counselors at the Anna Philbrook Center. This appropriation shall be nonlapsing and shall be in addition to other sums appropriated to the division for children and youth services. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

52 Appropriation. The sum of \$77,584 is hereby appropriated for the fiscal year ending June 30, 1989, to the division for children and youth services for the establishment of a 24-hour placement line,

including 3 coverage staff positions, equipment, and toll-free line. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

53 Glencliff Home for the Elderly; Nonlapsing Appropriation. Amend 1987, 400:1.05, 02, 05, 02, 03 class 48 to read as follows:

48 Cont. Maint

Bldgs & Grounds	G	55,000	43,174
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54 Laconia State School; Nonlapsing Appropriation. Amend 1987, 400:1.05, 02, 05, 03, 02 class 48 to read as follows:

48 Cont. Maint

Bldgs & Grounds	G	143,000	
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55 New Hampshire Hospital; Nonlapsing Appropriation. Amend 1987 400:1.05, 02, 05, 04, 02 class 48 to read as follows:

48 Cont. Maint

Bldgs & Grounds	G	169,500	
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56 Cosmetology and Barbering Board; Appropriation. Amend 400:1.05, 02, 07, 01 to read as follows:

05 Health and social services

02 Department of health and human services

07 Admin attached boards

01 Cosmetology & barbers board

10 Personal services -

permanent	50,135	52,479
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20 Current expense	[10,537]	[10,537]
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10,731	10,775
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28 Transfers to general services	5,208	5,340
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30 Equipment	8,000	
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50 Other personal services	[14,390]	[14,798]
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19,798

60 Benefits	[11,557]	[12,656]
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12,383	13,605
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70 In-state travel	5,564	5,628
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80 Out-of-state	1,000	1,000
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Total	[106,391]	[102,625]
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Estimated source of funds for	112,391	108,625
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Cosmetology & barbers bd

General Fund	[106,391]	[102,625]
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112,391	108,625
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Total	[106,391]	[102,625]
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112,391	108,625
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57 Supplemental Appropriation; Department of Transportation. Amend 1987, 400:1.04, 01, 02, 05, 02 by replacing all after line 92 with the following:

	<i>FY 88</i>	<i>FY 89</i>
93 Salted Wells-Raymond*	100,000	-0-
Total	327,000	229,000
Estimated source of funds for Claims		
Highway funds	327,000	229,000
Total	327,000	229,000

* The funds in this appropriation shall not lapse until June 30, 1989, and shall be used only for the purpose of replacing 2 wells at Liberty Tree Acres in the town of Raymond, or connecting the residents of Liberty Tree Acres to the Raymond municipal water supply. The department of transportation, after consultation with the town of Raymond, shall determine which course of action is appropriate.

58 Transfer; Secretary of State. Amend 1987, 400:1, 01, 05, 02 class 20 to read as follows:

20 Current expenses	[162,700]	172,300
	162,600	
30 Equipment	1000	

59 Supplemental Appropriation; Department of Safety; Division of State Police. Amend 1987, 400:1.01, 02, 15, 04, 02 for fiscal year 1989 to read as follows:

	<i>FY 89</i>
10 Personal services - permanent	[1,643,055]
	1,796,069
19 Pol/F&G/Hwy	[52,218]
	59,534
20 Current expenses	[49,586]
	55,086
28 Transfers to general services	62,991
30 Equipment	[167,750]
	260,850
50 Other personal services	[38,000]
	65,322

60 Benefits	[376,715]
	415,404
70 In-state travel	[95,000]
	113,000
80 Out-of-state travel	[7,800]
	15,300
90 Lab supplies	30,000
91 State police evidence account	15,000
Total	[2,550,115]
	2,888,761
Estimated source of funds for detective bureau	
02 Highway funds	[1,785,081]
	2,022,133
General fund	[765,034]
	866,628
Total	[2,550,115]
	2,888,761

60 Supplemental Appropriation; Department of Transportation.
Amend 1987, 400:1.04,01,07,01 for fiscal year 1989 to read as follows:

04 Transportation
01 Department of transportation
07 Other highway support
01 Special retirement

	<i>FY 89</i>
90 Special retirement	1,820
96 Hospitalization grp life ins	[635,172]
	935,172
Total	[636,992]
	936,992
Estimated source of funds for Special retirement	
Highway funds	[636,992]
	936,992
Total	[636,992]
	936,992

61 Appropriation Made Nonlapsing. Amend 1987, 396:6 to read as follows:

396:6 Appropriation. The sum of \$100,000 is hereby appropriated to the office of alcohol and drug abuse prevention for the fiscal year ending June 30, 1988. This appropriation shall [be lapsing] not lapse until June 30, 1989, and shall cover the costs of the first year of operation of the multiple DWI offender intervention detention center program which, after its first year of operation, shall be self-

supporting. This appropriation is in addition to any other funds appropriated to the office of alcohol and drug abuse prevention. The office may accept any federal funds or other funds which become available for purposes of the program. If federal funds or other funds become available in an amount which exceeds \$150,000, the state appropriation may be reduced so long as the total amount of state, federal, and other funds available for the program is not less than \$250,000. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

62 Reduced Appropriation; Liquor Commission. Amend 1987, 400:1.02,13,04,01 to read as follows:

02 Administration of justice and public protection
 13 Liquor commission
 04 Merchandising
 01 Administration

	<i>FY 88</i>	<i>FY 89</i>
10 Personal services		
-Permanent	[368,154]	[385,282]
	356,005	330,007
20 Current Expenses	10,522	11,194
30 Equipment	1,200	
50 Other personal services	12,026	12,026
60 Benefits	[78,172]	[85,665]
	75,621	73,504
70 In-state travel	9,215	9,215
80 Out-of-state travel	2,500	2,500
Total	[481,789]	[505,882]
	467,089	438,446
Estimated source of funds for Administration		
General Fund	[481,789]	[505,882]
	467,089	438,446
Total	[481,789]	[505,882]
	467,089	438,446

63 Supplemental Appropriation; Liquor Commission. Amend 1987, 400:1.02,13,01,01 to read as follows:

02 Administration of justice and public protection
 13 Liquor commission
 01 Office of the commissioner
 01 Administration

10 Personal services		
-permanent	61,858	65,387
11 Commissioners	46,400	151,993
12 Exec director	12,149	55,275

20 Current Expenses	60,928	67,850
40 Indirect costs	536,244	546,968
60 Benefits	[43,734]	[47,823]
	46,285	59,984
70 In-state travel	1,575	1,575
80 Out-of-state travel	3,241	3,241
Total	[853,980]	[884,837]
	868,680	952,273
Estimated source of funds for Administration		
General Fund	[853,980]	[884,837]
	868,680	952,273
Total	[853,980]	[884,837]
	868,680	952,273

64 Supplemental Appropriation; Department of Corrections.
Amend 1987, 400:1.02, 16, 01, 01 for fiscal year 1989 to read as follows:

02 Administration of justice and public protection
16 Department of corrections
01 Office of commissioner
01 Administration

	<i>FY 1988</i>
10 Personal services - permanent	[189,501]
	237,665
11 Personal services-unclassified	54,675
20 Current expenses	[28,803]
	29,803
30 Equipment	2,000
50 Other personal services	10,527
60 Benefits	[54,510]
	65,106
70 In-state travel	[1,690]
	2,690
80 Out-of-state travel	4,000
Total	[343,706]
	406,466
Estimated source of funds for Administration	
General fund	[343,706]
	406,466
Total	[343,706]
	406,466

65 Supplemental Appropriation; Commission on the Handicapped.
Amend 1987, 400:1.01, 03, 03, 01 class 90 to read as follows:

	<i>FY 1988</i>	<i>FY 1989</i>
90 Special Olympics	[15,000]	[15,000]
	25,000	25,000

66 Totals and Funding Sources Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.01, 03, 03, 01 to read as follows:

Total	[184,035]	[205,654]
	194,035	205,654
Estimated source of funds for commission on the handicapped		
General fund	[184,035]	[195,654]
	194,035	205,654
Total	[184,035]	[195,654]
	194,035	205,654

67 Transfer; Department of Insurance. Amend 1987, 400:1.02, 11, 01, 29 for the fiscal year 1988 to read as follows:

	<i>FY 1988</i>
29 Transfers to infor services	[10,709]
	31,709

68 Totals and Sources of Funds Adjusted. Amend the estimated totals and sources of funds for 1987, 400:1.02, 11, 01 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
Total	[940,093]
	961,093
Estimated source of funds for Administration	[940,093]
	961,093
09 Administrative assessment	[940,093]
	961,093

69 Transfer; Department of Insurance. Amend 1987, 400:1.02, 11, 02, 70 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
70 In-state travel	[31,000]
	10,000

70 Totals and Sources of Funds Adjusted. Amend the estimated totals and sources of funds of 1987, 400:1.02, 11, 02 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
Total	[883,663]
	862,663

Estimated source of funds for Examination	
division	[883,663]
	862,663
09 Examination revenue	[883,663]
	862,663

71 Supplemental Appropriation; Department of Postsecondary Vocational-Technical Education. Amend 1987, 400:1.06, 04, 04, 03 by inserting the following:

	<i>FY 1989</i>
90 Security system	30,000

72 Totals of Funding Source Adjusted. Amend the totals and estimated source of funds for 1987, 400:1.06, 04, 04, 03 for fiscal year 1989 to read as follows:

	<i>FY 1989</i>
Total	[187,304]
	217,304
Estimated source of funds for Women's dormitory	
09 NHTI Concord Women's Dorm	[187,304]
	217,304
Total	[187,304]
	217,304

73 Supplemental Appropriation; Department of Postsecondary Vocational-Technical Education. Amend 1987, 400:1.06, 04, 04, 04 for fiscal year 1989 by inserting the following:

	<i>FY 1989</i>
90 Security system	30,000

74 Totals of Funding Source Adjusted. Amend the totals and estimated source of funds for 1987, 400:1.06, 04, 04, 04 for fiscal year 1989 to read as follows:

	<i>FY 1989</i>
Total	[108,645]
	138,645
Estimated source of fund for Men's dormitory	
09 NHTI Men's Dorm Revenue	[47,986]
	77,986
General fund	60,659
Total	[108,645]
	138,645

75 Capital Reserve. Amend 1987, 399:10, II to read as follows:

II. The state treasurer, with the prior approval of the fiscal committee and governor and council, is hereby authorized to utilize 50 percent of any general fund revenue which is in excess of \$524,320,000 for fiscal year 1987, [\$540,820,000] \$550,110,000 for fiscal year 1988, and [\$556,020,000] \$566,767,000 for fiscal year 1989, as determined by the official audit performed pursuant to RSA 21-I:8, I(h) at the close of each fiscal year for the purpose of providing funds authorized by paragraph I in lieu of issuing bonds.

76 Revised Revenue Estimates. 1987, 400:25 is repealed and reenacted to read as follows:

400:25 Estimates of Unrestricted Revenue.

GENERAL FUND	1988	1989
Beer	\$ 12,000,000	\$ 12,200,000
Board & Care	15,000,000	15,000,000
Business Profits Tax	150,000,000	156,000,000
GENERAL FUND	1988	1989
Estate & Legacy Taxes	18,000,000	18,000,000
Insurance	40,000,000	40,500,000
Interest & Dividends Tax	28,000,000	28,500,000
Liquor	50,000,000	50,000,000
Meals and Rooms Taxes	78,500,000	84,000,000
Parks Income	5,400,000	5,400,000
Dog Racing	9,000,000	9,000,000
Horse Racing	1,300,000	1,500,000
Real Estate Transfer Tax	34,000,000	36,000,000
Telephone	9,500,000	9,000,000
Tobacco	31,000,000	30,500,000
Utilities	6,700,000	6,900,000
Other	34,210,000	35,267,000
Courts	19,500,000	21,000,000
Savings Bank Tax	8,000,000	8,000,000
Total	\$550,110,000	\$566,767,000

77 Totals Adjusted. The legislative budget assistant is authorized to adjust all totals as made necessary by the passage of this act.

78 Effective Date. This act shall take effect upon its passage.

Amendment adopted.

Senator Hough offered a floor amendment.

SENATOR HOUGH: The floor amendment that you have before you on the first page is the other part of the indigent defense equa-

tion that I spoke to you about earlier. What you adopted in the floor amendment on the indigent defense bill needs this language to be consistent.

The second part of the amendment is an amendment that was agreed to in the committee of Finance. However, the language was not put in to the amendment when it was printed, due to the absence of one of the staff, and it was an oversight.

SENATOR KRASKER: I know, Senator Hough, that on line 92, contract counsel, there is a different amount in the floor amendment as in the calendar and I wondered if the floor amendment is in error?

SENATOR JOHNSON: I rise in opposition to the floor amendment, particularly section 78, the catastrophic aid for the fiscal year 1989 proration portion thereof. Based on my understanding of what's happening at this moment, and I'll remind this body that last year we passed a major change in the catastrophic aid funding mechanism. We increased the amount that the local school districts would pay and it was my understanding at that time, and it is still my understanding, that in exchange for that the State assumed an obligation that they would pay the full amount, or 80% of that excess amount. I think that's what school districts have based their plans on. It's my understanding that that is indeed the commitment and Senator Dupont a moment ago used the word commitment on several occasions there and I think this is an area that the state should not renege on and I think this amendment should be defeated.

SENATOR HOUGH: This amendment that Senator Johnson refers to, this portion, is consistent with the policy of the Senate Education committee. It's consistent with the policy of the Senate Finance committee and it's consistent, again, with the major public policy decision of a year ago. It is the commitment of this state, after having adopted a new threshold of three and a half times the most recent per pupil cost, to pay 100% of our obligation, which is 80% of the excess of the cost that these local communities and schools must bear. You have a supplemental appropriation to fully fund the 1988 demand under the program and again, if the value in the second year of the biennium is not correct, the difference recognizing the public policy is set to fully fund our obligation that any shortfall in estimating what is going to be needed next year will be done on a pro rata basis pending the supplemental. This is consistent with what this body has passed repeatedly in this session of the legislature and the position of this body a year ago. I don't wish to argue with my friend, Senator Johnson, I tell you in all honesty that we're speaking

of the same mind. We have fully funded our obligation in the first year and we certainly will be fully funding our obligation in the second year. But, we don't know, at this point in time, nor did we know a year ago at this point in time, what the bills would ultimately be after July first. That's what this section of the amendment is and, as I said, it was agreed to in Finance and it literally was omitted in the drafting of the amendment in the calendar and it's just an oversight. That's why it's a floor amendment.

SENATOR DISNARD: Senator Hough, would you agree that the Senate had already approved of this in the catastrophic aid bill?

SENATOR HOUGH: Absolutely and that bill, if it goes to conference, we can have another look at it. But, what the House's position is and their actions relative to the supplemental appropriation for catastrophic aid is putting this body at the disadvantage and we're reaffirming our position.

SENATOR MCLANE: I understand exactly what you're saying, is that, obviously, we can obligate funds that we don't know how much they're going to be and so we will pro rate them. Could you tell me where in the catastrophic aid bill it says that eventually the state is going to meet its obligation?

SENATOR HOUGH: That was established a year ago when we put in a new threshold of three and a half times and it was agreed that we fully fund our 80% obligation.

SENATOR JOHNSON: Senator Hough, I just want to make sure that I do understand it now so that any shortfall would be pro rated but that would be understood that the following year that would be made up?

SENATOR HOUGH: That is public policy as far as this body is concerned in this legislation since the major change a year ago.

Floor Amendment to HB 1129

Amend the bill by replacing section 1 with the following:

1 Supplemental Appropriation; Department of Administrative Services; Indigent Defenders. Amend 1987, 400:1.01,04,01,02,04 to read as follows:

01 General government
04 Dept of administrative services
01 Office of the commissioner

02 Budget office

04 Indigent defenders

50 Other personal services	30,000	30,000
60 Benefits	2,145	2,253
90 Assigned counsel	[450,000]	[316,000]
	766,000	283,750
91 Public defender program	3,000,000	[3,300,000]
		3,912,242
92 Contract counsel	[750,000]	[374,927]
	1,081,427	336,662
93 Pilot collection program	43,500	179,588
Total	[4,232,145]	[4,023,180]
	4,923,072	4,744,495
Estimated source of funds for indigent defenders		
General fund	[4,232,145]	[4,023,180]
	4,923,072	4,744,495
Total	[4,232,145]	[4,023,180]
	4,923,072	4,744,495

It is the intent of the general court that RSA 604-A:9 be implemented to the fullest extent possible and that all fees and costs provided on behalf of an indigent shall be recovered and continually appropriated to the indigent defense program

The department of administrative services is hereby authorized to enter into percentage of collection contracts to recover fees and costs provided on behalf of an indigent.

Amend the bill by inserting after section 77 the following and renumbering section 78 to read as 79.

78 Catastrophic Aid for Fiscal Year 1989; Proration. If the funds appropriated for catastrophic aid for the fiscal year ending June 30, 1989, are inadequate to pay the total costs of catastrophic aid students in all districts, then catastrophic aid payments for such fiscal year shall be reduced on a prorated basis.

Floor amendment adopted.

SENATOR HOUNSELL: As I'm looking at this and remembering 1986, when we had another supplemental budget before this body, for those of you that were here, we can remember how that was addressed and how this body dealt with it. Finally, we ended up leaving; we made a motion of adjournment. There's a lot said about that. I, at the time, felt that that was a good thing to do and I still believe, given that year and given the way things were going, that was the thing to do. So, I'm looking at this and seeing that the Senate Finance committee has done a lot of work on this budget; a lot of thought has gone into it. I'm prepared to support this budget at this time with all the amendments. But, I just want to also caution you, just from my own perspective from something that I learned in 1986 and something that I've observed all along. When we have a surplus, there seems to be a lot of people who want to participate in that and we seem to be now at the end of any time when we talk about surplus. We're seeing warning signs and I think the Senate Finance committee has been very responsible in addressing those warning signs. I think this budget reflects that. At the same time, next year when we come back here, as we observe that people want to share in a surplus, I hope those same people may be willing to share in a deficit. Because, personally, I see a downturn. Last year I stood up and said I thought revenue projections were overstated and that seems to be the case. I conclude my brief statement here, as I support this, at this time, that there is no real reason why the Senate conferees, if this should go to a committee of conference, should give a single inch. You've done the responsible thing; hold the line. If you give anything, it's going to go up and I don't think that we want to do that as a body. So, I send you off with that and thank you for the job well done.

Question: Ordered to Third Reading.

Adopted.

Recess.

Out of Recess.

HOUSE MESSAGES

HOUSE REQUESTS CONCURRENCE WITH AMENDMENTS

SB 328, relative to sexual misconduct by psychotherapists.

Senator Bond moved to concur.

Adopted.

SB 297-FN-A, establishing adult in-home care services for certain persons and making an appropriation therefor.

Senator Krasker moved to concur.

Adopted.

SB 278, relative to aid to assisted persons, and the legalization of certain town meetings and proceedings.

Senator Pressly moved to concur.

Adopted.

SB 313-FN, providing a cost of living increase for New Hampshire retirement system group II members, relative to death benefits for beneficiaries of group II members, and relative to health care benefits for retired group II members and retired employees of political subdivisions.

Senator St. Jean moved to concur.

Adopted.

SB 327-FN, eliminating the social security offset provision for group I members of the retirement system and relative to retirement system administration.

Senator Delahunty moved to concur.

Adopted.

SB 296-A, relative to the construction of regional vocational education centers and making an appropriation therefor.

Senator Torr moved to concur.

Adopted.

SB 322-FN-A, relative to petroleum pollution cleanup.

Senator Hounsell moved to concur.

Adopted.

SB 303-FN, relative to a judicial service increment and to the committee on judicial conduct.

Senator St. Jean moved nonconcurrency.

Adopted.

SB 307-FN, relative to retirement pay for judges, to vested rights in judicial retirement compensation, and to the committee on judicial conduct.

Senator Torr moved nonconcurrence.

Adopted.

SB 294-FN, relative to the catastrophic aid formula, and making a supplemental appropriation therefor.

Senator Hough moved to concur.

Adopted.

HOUSE REFUSES TO CONCUR
WITH SENATE AMENDMENT

REQUESTS A COMMITTEE OF CONFERENCE

HB 852-FN, relative to New Hampshire hospital personnel.

The Speaker appointed Reps. Hawkins, Wm. McCain, N. Ford and Rosencrantz.

Senator Freese moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Freese, Stephen and Delahunty.

HB 917, making technical changes for the department of revenue administration.

The Speaker appointed Reps. Hawkins, McCain, Hayes and Rosencrantz.

Senator Freese moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Freese, Bartlett and Disnard.

HB 948, allowing a village district to be established for the purposes of transportation of people in the village district.

The Speaker appointed Reps. Barnes, Adams, West and Baldizar.

Senator Preston moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Preston, Heath and Johnson.

HB 625-FN, relative to fees for boats and boat registration, and making certain appropriation.

The Speaker appointed Reps. Katsiakores, Gross, Hammond and Nelson.

Senator Hounsell moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Hounsell, Freese and Preston.

HOUSE REQUEST CONCURRENCE IN AMENDMENT

SB 347-FN-A, increasing rates for shared homes and making an appropriation therefor.

Senator Freese moved nonconcurrence and requested a committee of conference.

Adopted.

The President appointed Senators Freese, Blaisdell and Delahunty.

SB 262-FN-A, establishing a New Hampshire conservation corps and making an appropriation therefor.

Senator White moved nonconcurrence and requested a committee of conference.

Adopted.

The President appointed Senators White, Podles and St. Jean.

SB 247-FN-A, relative to phase II of restoration of the old state house and making an appropriation therefor.

Senator Torr moved nonconcurrence and requested a committee of conference.

Adopted.

The President appointed Senators Torr, White and Preston.

SB 331-FN, relative to payment for forensic medical examinations of sexual assault victims, a standardized rape protocol, and making a supplemental appropriation for rape victim services.

Senator White moved nonconcurrency and requested a committee of conference.

Adopted.

The President appointed Senators White, Bond and St. Jean.

SB 304-FN, relative to the disposition of fines and forfeitures collected for violations of municipal ordinances, codes and regulations.

Senator Preston moved nonconcurrency and requested a committee of conference.

Adopted.

The President appointed Senators Preston, Bartlett and Dupont.

SB 301-FN-A, relative to the deadline for an environmental impact study for a 4-lane east-west highway from Concord to the Spaulding turnpike.

Senator Torr moved nonconcurrency and requested a committee of conference.

Adopted.

The President appointed Senators Torr, Krasker and Hounsell.

SB 323-FN, relative to providing medical assistance to children who are disabled or victims of catastrophic illness.

Senator Nelson moved nonconcurrency and requested a committee of conference.

Adopted.

The President appointed Senators Nelson, White and Dupont.

SB 315-FN, relative to the personnel appeals board.

Senator Stephen moved nonconcurrency and requested a committee of conference.

Adopted.

The President appointed Senators Stephen, Freese and Delahunty.

SB 305-FN, relative to pari-mutuel pools at dog races.

Senator Blaisdell moved nonconcurrency and requested a committee of conference.

Adopted.

The President appointed Senators Blaisdell, Bartlett and Hough.

SB 289-FN, authorizing the hiring of a consultant to study the effectiveness of the foundation aid formula.

Senator Disnard moved nonconcurrency and requested a committee of conference.

Adopted.

The President appointed Senators Disnard, Nelson and Johnson.

SB 355-FN, appropriating additional sweepstakes revenues for foundation aid.

Senator Blaisdell moved nonconcurrency and requested a committee of conference.

Adopted.

The President appointed Senators Blaisdell, Dupont and Hough.

SB 334-FN-A, establishing a comprehensive literacy and dropout prevention program, and making an appropriation therefor.

Senator Disnard moved nonconcurrency and requested a committee of conference.

Adopted.

The President appointed Senators Disnard, Hough and Bond.

SB 326-FN, establishing a New Hampshire rivers management and protection program and making an appropriation therefor.

Senator Hounsell moved nonconcurrency and requested a committee of conference.

Adopted.

The President appointed Senators Hounsell, McLane and Blaisdell.

HOUSE REFUSES TO CONCUR

SB 330-FN, providing medical and health insurance coverage for retired firefighter and police New Hampshire retirement system members.

HOUSE ADOPTS COMMITTEE OF CONFERENCE REPORTS

HB 848, relative to burials on private property.

HOUSE CONCURS

SB 275-A, relative to Skyhaven airport and making an appropriation therefor.

SB 298-A, relative to student housing at the New Hampshire technical institute and making an appropriation therefor.

SB 341-FN-A, establishing a position to coordinate child day care services in the office of the commissioner of health and human services and making an appropriation therefor.

HOUSE CONCURS WITH SENATE AMENDMENT

HB 737, relative to appointing alternates for certain members on municipal budget committees.

HB 746, relative to legalizing the Winchester town meeting.

HB 784, relative to disclosure of securities takeovers.

HB 833, relative to the defense and indemnification of housing finance authority officials and employees.

HB 900, extending the reporting dates for the cooperative extension service and fire law study committees and extending the report date and appropriation of the environmental risk insurance fund study commission.

HB 902, relative to county foresters.

HB 905, relative to surrogate parents appointed for educationally handicapped children.

HB 963-FN, relative to certain public utility contracts.

HB 998-FN, relative to liability of manufacturers.

HB 1008-FN, relative to after market parts.

HB 1020-FN, relative to occupational therapists and occupational therapy assistants and making an appropriation therefor.

HB 1062-FN, relative to the advisory committee on state economic development and local population growth.

HB 1072-FN, appropriating funds to the department of environmental services for a water supply study.

HB 1098-FN, establishing a committee to study surrogate motherhood.

HB 1107-FN-A, establishing a committee to study legislative employees' and constitutional officers' retirement benefits and making an appropriation therefor.

HB 1186, relative to the establishment of inclusionary zoning and accessory dwelling unit standards and development restrictions.

HB 1194, relative to the emergency treatment of step-children.

HB 1199-FN, relative to unemployment compensation and relative to the division of standard and certification, department of education.

COMMITTEE REPORTS

HB 1103-FN, relative to state-owned surplus real estate to be used to establish affordable housing for low and moderate income persons. Ought to Pass with Amendment. Senator St. Jean for the Committee.

SENATOR ST. JEAN: HB 1103-FN allows New Hampshire Finance Authority to take state-owned land from Governor and Council for low and moderate income housing. The amendment covers the definition of housing, which includes homes for the handicapped. It also mentions, specifically, the Hampton Falls property, which is part of this legislation and will be included under this act.

AMENDMENT TO HB 1103-FN

Amend RSA 204-D:1, III as inserted by section 1 of the bill by replacing it with the following:

III. "Persons of low income" means individuals or families whose gross annual income is equal to 80 percent or less of the median income of the geographic area in which they reside as determined by the authority.

Amend RSA 204-D:3 as inserted by section 2 of the bill by replacing it with the following:

204-D:3 Highway Fund.

I. Surplus property held by the department of transportation which was acquired with highway fund moneys shall be transferred to the authority under the procedures set out in RSA 204-D:2, provided, however, that the authority shall compensate the department for such land in an amount acceptable to the department and the authority. Such amount shall not exceed the original expenditure for the property from the highway fund.

II. Surplus property held by the department of transportation which was acquired, in whole or in part, with federal or turnpike funds shall be transferred to the authority for the minimum compensation required by federal law or controlling turnpike revenue bond resolution.

Amend the introductory paragraph of RSA 204-D:6 as inserted by section 2 of the bill by replacing it with the following:

204-D:6 Rulemaking. The authority shall adopt rules under RSA 204-C:53 relative to:

Amend the bill by replacing all after section 2 of the bill with the following:

3 Disposal of Real Estate. Amend RSA 4:40, I to read as follows:

I. Except as provided in RSA 4:39-a [and paragraph II of this section] and RSA 204-D, upon recommendation of the head of any state department having jurisdiction over the same and with the approval of the council on resources and development, all requests for the disposal or leasing of state-owned properties shall be reviewed and approved by the long range capital planning and utilization committee prior to submission to the governor and council for approval. Upon determination that the property is no longer needed by the state, the governor and council shall first offer it to the town, city, or county in which the property is located. If the town, city, or county refuses the offer, the governor and council may sell, convey, transfer, or lease the real property.

4 Homes for the Handicapped. Amend RSA 204-C:1, XV to read as follows:

XV. "Housing" shall mean one or more new or existing dwelling units in the state financed pursuant to this chapter, including homes for the handicapped, mobile homes, prefabricated homes, any build-

ings, land, improvements, equipment, facilities or other real or personal properties which are deemed by the authority to be necessary, convenient, ancillary or desirable in connection with such dwelling units, and including, but not limited to, streets, sewers, utilities, parks, site preparation, off-site facilities, landscaping and other non-housing facilities such as administrative, community, transportation, health, recreational, educational, commercial, retail, welfare and public facilities.

5 New Paragraph; Powers of the Authority. Amend RSA 204-C:8 by inserting after paragraph XXVI the following new paragraph:

XXVI-a. Finance, on such terms and conditions as the authority may determine, by the issuance of bonds or otherwise, homes for the handicapped without regard to any other requirement of this chapter relating to the making or purchasing of loans or mortgage loans or to the requirements of RSA 204-C:11 if the authority finds that such financing would result in a public benefit.

6 Area of Operation. Amend RSA 204-C:11 to read as follows:

204-C:11 Area of Operation. The area of operation of the authority shall be the entire state[; provided that, with the exception of data collection, the authority shall not operate with respect to any multi-family housing programs and the existing housing program under section 8 of the United States Housing Act of 1937, as amended, in any area in which a local authority of a municipality is operating, without the consent by resolution of the local authority operating therein and the consent of the local governing body; and further provided that, in areas where there is no local authority operating, with the exception of data gathering, planning, single Family Programs and the Existing Housing Program under section 8 of the United States Housing Act of 1937, as amended, the authority shall not operate without the consent of the local governing body. The authority shall provide notice of its intent to operate any multi-family housing by sending a letter by registered mail to the board of selectmen or city council to request permission for such program. Any consents required by this section may limit the time and scope of activities to be conducted by the authority in the municipality. For the purposes of this chapter alone, the area of operation of a local authority shall mean the municipality for which it is created. The rights and remedies of any person having an existing contract under the existing Housing Program under section 8 of the United States Housing Act of 1937, as amended, shall not be impaired or affected in any way by this section].

7 Hampton Falls Property. Notwithstanding any other law, as of the effective date of this act, the parcel of land located in Hampton Falls currently leased to the New Hampshire housing finance au-

thority under an August 6, 1987, agreement is hereby transferred to the authority for use as authorized under this act.

8 Repeal. RSA 4:40, II, relative to leasing state owned real estate to the New Hampshire housing finance authority, is repealed.

9 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill, as amended, allows the governor and council to transfer surplus state owned property to the New Hampshire housing finance authority to be used as sites for constructing low and moderate income housing. Except for surplus property acquired with highway, federal, or turnpike funds by the department of transportation, transfers of property to the authority will be made without consideration.

The bill also restricts the authority's ability to transfer acquired property and gives the authority rulemaking power regarding administration of the surplus lands housing program.

As amended, the bill allows the authority to finance homes for the handicapped.

The bill, as amended, also transfers to the authority a parcel of land in Hampton Falls currently under lease to the authority.

Amendment adopted. Ordered to Third Reading.

HB 932-FN-A, establishing a New Hampshire film and television bureau and making an appropriation therefor. Ought to Pass with Amendment. Senator Heath for the Committee.

SENATOR HEATH: As amended by the Senate, this takes all the money out of it. It suggests that the state would like to have the commissioner of DRED look over how he might set up such an area in his domain, and the rules that he might like to draw, and suggests that he looks at getting reimbursed for services and having a script approval before a state agency is used.

AMENDMENT TO HB 932-FN-A

Amend the title of the bill by replacing it with the following:

AN ACT

establishing a New Hampshire film and television bureau.

Amend paragraph I of section 3 of the bill by inserting after subparagraph (b) the following:

(c) Provisions for the reimbursement and prior script approval rights of any state services used in production.

Amend the bill by deleting section 4 and renumbering section 5 to read as section 4.

AMENDED ANALYSIS

This bill establishes a New Hampshire film and television bureau in the department of resources and economic development.

This bill, as amended, requires the commissioner of resources and economic development to develop a plan to promote New Hampshire's economic development through this new bureau. The commissioner shall submit this plan to the governor and the council, the speaker of the house, and the senate president by December 1, 1988.

Amendment adopted. Ordered to Third Reading.

HB 972, relative to annulments of drug convictions and permitting the director of motor vehicles to review revocation of licenses of habitual offenders for possible restoration under certain conditions. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: The amendment is on page 25 of your calendar. Basically, that is the entire bill that you have before you. This bill was put in at the request of the department of safety to check and make sure that seven years must pass after the date of a conviction before any court order can annul the convictions of certain controlled drug offenses. Basically, what we did in the amendment was just to change some of the paragraphs around. We did put in one new article; while an order of the director, and we put or the court, so that also the courts could be involved in this. We feel that it's important. At first we had concern that we were weakening the laws in regards to the habitual offenders, but upon review we found that we were not weakening those laws, so this is something they wanted and we feel it is a good bill.

AMENDMENT TO HB 972

Amend the title of the bill by replacing it with the following:

AN ACT

relative to annulments of drug convictions and convictions which may be counted toward habitual offender status, and permitting the director of motor vehicles to review revocation of licenses of habitual offenders for possible restoration under certain conditions.

Amend the bill by replacing all after the enacting clause with the following:

1 Reference Change; Habitual Offender Procedure. Amend RSA 262:19, III to read as follows:

III. If the director finds that the person is not the same person named in the transcript or that the abstract does not contain the number of valid convictions required by RSA 259:39[, I or II], the proceeding shall be dismissed. If the director finds that the person is the same person named in the transcript or abstract and that the person is an habitual offender, the director shall, by appropriate order, revoke the person's driver's license and direct the person not to drive a motor vehicle on the ways of this state for a period of one to 4 years effective upon the date of the order or upon dates of final conviction of the offense that resulted in certification. All licenses or permits to operate a motor vehicle on the ways of this state must be surrendered to the director. A copy of the order shall become part of the record of the division of motor vehicles.

2 New Paragraph; Habitual Offenders; Review of Revocation. Amend RSA 262:19 by inserting after paragraph V the following new paragraph:

VI. A person who had his license revoked pursuant to RSA 262:19, III prior to July 17, 1987, may petition the director after a minimum of one year of such revocation for restoration of his driving privileges. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the conditions under which the director may restore a driver's license revoked under such conditions prior to the expiration of the original period of revocation.

3 Operating After Habitual Offender Order. Amend RSA 262:23, I to read as follows:

I. It shall be unlawful for any person to drive any motor vehicle on the ways of this state while [the] an order of the director or the court prohibiting such driving remains in effect. If any person found to be an habitual offender under the provisions of this chapter is convicted of driving a motor vehicle on the ways of this state while

[the] an order of the director or the court prohibiting such operation is in effect, he shall be sentenced, notwithstanding the provisions of RSA title LXII, to imprisonment for not less than one year nor more than 5 years. No portion of the minimum mandatory sentence shall be suspended, and no case brought to enforce this chapter shall be continued for sentencing; provided, however, that any sentence or part thereof imposed pursuant to this section may be suspended in cases in which the driving of a motor vehicle was necessitated by situations of apparent extreme emergency which required such operation to save life or limb. Any sentence of one year or less imposed pursuant to this paragraph shall be served in the county house of correction. Any sentence of more than one year imposed pursuant to this paragraph shall be served in the state prison.

4 Habitual Offenders; License Restoration. Amend RSA 262:24 to read as follows:

262:24 Restoration of License. Upon the expiration of the revocation period imposed pursuant to RSA 262:19, III, or under conditions established by the commissioner pursuant to RSA 262:19, VI, such person may petition the director for restoration of his license to drive a motor vehicle on the ways of the state. Upon such petition, and for good cause shown, the director may restore to such person the license to drive a motor vehicle on the ways of this state upon such terms and conditions as the director may prescribe subject to other provisions of law relating to the issuance of drivers' licenses.

5 Annulments of Drug Convictions. RSA 318-B:28-a is repealed and reenacted to read as follows:

318-B:28-a Annulments of Criminal Records. No court shall order an annulment, pursuant to RSA 651:5 or any other provision of law, of any record of conviction for a felony under RSA 318-B until 7 years after the date of conviction.

6 Annulments of Drug Conviction Records. RSA 651:5, XV is repealed and reenacted to read as follows:

XV. No court shall, until 7 years after the date of conviction, order an annulment pursuant to this section of any record of conviction for an offense under RSA 639:2, 639:3, III, or RSA 649-A, for a felony under RSA 318-B, or for an offense against a person under the age of 13 under RSA 632-A. No court shall order an annulment pursuant to this section of any record of conviction which may be counted toward habitual offender status, as defined in RSA 259:39, until 7 years after the date of such conviction.

7 Effective Date.

I. Sections 5 and 6 of this act shall take effect January 1, 1989.

II. The remainder of this act shall take effect upon its passage.

AMENDED ANALYSIS

This bill requires that 7 years must pass after the date of conviction before any court may order an annulment of a conviction for a controlled drug offense. Currently the 7-year wait period for an annulment of a drug conviction applies only to drug possession convictions.

This bill also requires that 7 years must pass after the date of any conviction which may be counted toward habitual offender status before any court may order the annulment of the conviction.

This bill, as amended, authorizes the director of motor vehicles upon petition, to review a person's operator's license revocation as an habitual offender, after one year of revocation. The commissioner of safety shall by rules adopted under RSA 541-A, establish conditions for operator's license restoration.

Amendment adopted. Ordered to Third Reading.

HB 1128, establishing child support guidelines, and establishing a committee to study child support issues. Ought to Pass with Amendment. Senator Roberge for the Committee.

SENATOR ROBERGE: The purpose of this bill is to establish a uniform system to be used in the determination of the amount of child support and to minimize the economic consequences to children and to comply with federal law by using specific guidelines based on a set of specific principals.

AMENDMENT TO HB 1128

Amend the bill by replacing sections 1-4 with the following:

1 New Chapter; Child Support Guidelines. Amend RSA by inserting after RSA 458-B the following new chapter:

CHAPTER 458-C

CHILD SUPPORT GUIDELINES

458-C:1 Purpose. The purpose of this chapter is to establish a uniform system to be used in the determination of the amount of child support, to minimize the economic consequences to children, and to comply with applicable federal law by using specific guidelines based on the following principles:

I. The custodial parent shall share responsibility for economic support of the children, irrespective of any non-custodial parent's child support order.

II. The children in an obligor's initial family are entitled to a standard of living equal to that of the obligor's subsequent families.

III. The percentage of net income paid for child support should vary according to the number of children and, with limited exemptions, not according to income level.

458-C:2 Definitions. In this chapter:

I. "Gross income" means all income from any source, whether earned or unearned, including, but not limited to, wages, salary, commissions, tips, annuities, trust income, lottery or gambling winnings, interest, dividends, net rental income, self-employment income, alimony, business profits, pensions, bonuses, and payments from other government programs (except public assistance), including, but not limited to, workers' compensation, veterans' benefits, unemployment benefits, and disability benefits.

II. "Net income" means the obligor's gross income, less:

- (a) actual federal income taxes payable;
- (b) actual state taxes payable;
- (c) FICA and other payroll taxes;
- (d) any self-employment taxes;
- (e) mandatory, not discretionary, retirement contributions;
- (f) court-ordered or administratively-ordered support actually paid to others, for adults or children.

III. "Obligor" means the parent responsible for the payment of child support under the terms of a child support order.

IV. "Obligee" means the parent who receives the payment of child support under the terms of the child support order.

V. "Percentage" means the numerical figure that is applied to net income to determine the amount of child support.

458-C:3 Child Support Formula.

I. Number of Children	Percentage of Net
1	25 percent
2	33 percent
3	40 percent
4 or more	45 percent

II. When the obligor provides medical insurance coverage for the minor children of the parties, the net income amount used to calculate the percentage under paragraph I of this section shall be reduced by 50 percent of the actual amount paid for this insurance.

III. The number of children in the same household for which child support is paid is the determining factor in the percentage applied against net income.

458-C:4 Application of Guidelines.

I. Subject to the provisions of RSA 458-C:5, these guidelines shall be applied in all child support cases and in any order modifying

a support order, unless the specific issue of child support obligation has been resolved by agreement of the parties.

II. If the guidelines are not used the presiding officer shall explain in the order why they are not used.

III. When considering a request for an original support order or modification of a support order under this chapter, the court shall take into account any step children for which either party may be responsible.

IV. When arrangements for child support are delineated in an agreement between the parties, and not made according to these guidelines, the presiding officer shall certify, or otherwise make it a matter of record, that he finds the terms of the agreement reasonable, and he shall state in the record his reasons for this determination.

458-C:5 Adjustments to the Application of Guidelines Under Special Circumstances.

I. Special circumstances, including, but not limited to, the following, may result in adjustments in the application of the support guidelines:

(a) ongoing extraordinary expenses of the child, the obligee or the obligor, including daycare costs and state taxes paid;

(b) significantly high or low income of the obligee or obligor;

(c) the economic consequences of the presence of stepparents or stepchildren;

(d) extraordinary costs associated with the obligor's exercise of his physical custodial rights;

(e) the economic consequences to either party of the disposition of a marital home made for the benefit of the child;

(f) the opportunity to optimize both parties' after-tax income by taking into account federal tax consequences of an order of support;

(g) state tax obligations;

(h) split or shared custody arrangements;

(i) other special circumstances found by the court to avoid an unreasonably low or confiscatory support order, taking all relevant circumstances into consideration.

II. The party relying on the provisions of this section shall demonstrate special circumstances by a preponderance of the evidence.

2 Committee Established. There is established a committee to study child support issues. The duties of the committee shall include:

I. Studying federal child support legislation.

II. Reviewing child support guidelines in this state and other states, with a view toward improving New Hampshire's child support formula.

III. Reviewing the effectiveness of the New Hampshire office of child support enforcement.

IV. Making any recommendations for proposed legislation that the committee deems necessary.

3 Membership. The committee shall consist of the following members:

I. Three members of the house of representatives, appointed by the speaker of the house, or their designees.

II. Three members of the senate, appointed by the president of the senate, or their designees.

III. One member, appointed by the governor.

IV. The administrator of the office of child support enforcement, or his designee.

V. One marital master appointed by the chief justice of the superior court.

4 Chair; Staff. The governor's appointee shall call the first meeting of the committee within 30 days of the effective date of this act. The chair of the committee shall be elected by the members at the first meeting.

Amendment adopted.

Senator Podles offered a floor amendment.

SENATOR PODLES: There were just the three last words omitted from the calendar in the amendment section and the three words are: by the obligor, and that is absolutely necessary to have and this is all that it does. It includes those three words.

Floor Amendment to HB 1128

Amend RSA 458-C:3, II as inserted by section 1 of the bill by replacing it with the following:

II. When the obligor provides medical insurance coverage for the minor children of the parties, the net income amount used to calculate the percentage under paragraph I of this section shall be reduced by 50 percent of the actual amount paid for this insurance by the obligor.

Floor amendment adopted. Ordered to Third Reading.

HB 940, relative to child support enforcement and paternity. Ought to Pass with Amendment. Senator Podles for the Committee.

SENATOR PODLES: HB 940, as amended, provides for no fee to be charged for recording a child support judgement. It requires the court to make specific findings in a child support order on medical and uninsured medical expenses. Essentially, it makes it easier to prove paternity by allowing tissue tests, in addition to blood tests. It also deals with the provision for withholding 10% of the unemployment benefits to go to child support. This bill is necessary as a necessary complement to HB 1128. Both bills are designed to work together to fulfill the requirements of the federal government. Without the enactment of these measures, a significant portion of the state's federal child support enforcement funding, as well as direct payments for the support of children, would be threatened. They were both reviewed as a package by Mr. Gallagan of the reviewing federal agency and he feels they are an excellent first step and more than satisfy the federal requirements at this time. I urge your support for HB 940.

AMENDMENT TO HB 940

Amend RSA 458:17, VIII and IX as inserted by section 3 of the bill by replacing them with the following:

VIII. No modification of a support order shall alter any arrearages due prior to the date of filing the motion for modification.

IX. Each child support order shall include the court's determination and findings relative to health insurance and the payment of uninsured medical expenses for the children.

Amend RSA 458:17 as inserted by section 3 of the bill by deleting paragraphs X and XII, and renumbering paragraph XI to read as paragraph X .

Amend the bill by deleting section 4 and renumbering sections 5-10 to read as 4,5,6,7,8,and 9,respectively.

AMENDED ANALYSIS

This bill revises the child support and paternity laws. Changes in the child support laws are:

1. There is no fee for recording a lien for a child support judgment.
2. The interest on a child support judgment is set at the statutory amount for all judgments.
3. Support orders shall be deemed judgments when due and payable.

4. Orders shall include the court's findings and determination on health insurance and payment of the uninsured medical costs of the children.

5. Provisions for mandatory withholding from unemployment compensation payments.

Changes in the paternity law are:

1. Authorization of the use of tissue tests in addition to blood tests.
2. The use of expert testimony is optional.
3. If a paternity test shows a 97 percent or greater probability of paternity, a presumption of paternity is established.
4. The test results or procedures may be challenged.
5. Acceptable and unacceptable evidence of paternity is listed.

Amendment adopted. Ordered to Third Reading.

Recess

Out of Recess

Senator Dupont in the Chair.

HB 964, granting law enforcement officials and certain employees of the department of health and human services the right to enter, without the consent of parent or guardian, public places to interview children who may be abused or neglected. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: Basically, what this does is it allows access to the public schools and other public places for law enforcement officials and employees of the bureau of child and family services, in regards to cases of abuse and neglect. The problem that is occurring is that if the parents or the guardians of the people are warned that they are going to interview their children, then they go and they tell the kids what they should and shouldn't say. So, we have added the amendment, which is on page 24, and adds the word notification, so that we can get true readings from the children as to what actually is going on. The other thing that we tightened up in the bill was to allow for video tape interviews with the child and, if they do not have the video tape equipment available, then it shall be recorded. That's on the top of page 25. So, we urge your support of the committee report of ought to pass as amended.

AMENDMENT TO HB 964

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraphs; Law Enforcement Personnel and Bureau Employee Interviews of Child Victims. Amend RSA 169-C:38 by inserting after paragraph III the following new paragraphs:

IV. Law enforcement personnel and bureau employees shall have the right to enter any public place, including but not limited to schools and child care agencies, for the purpose of conducting an interview with a child, without the consent or notification of the parent or parents of such child, if there is reason to believe that the child has been:

(a) Sexually molested.

(b) Sexually exploited.

(c) Intentionally physically injured so as to cause serious bodily injury.

(d) Physically injured by other than accidental means so as to cause serious bodily injury.

(e) A victim of a crime.

(f) Abandoned.

(g) Neglected.

V. For any interview conducted pursuant to paragraph IV, every effort shall be made to video-tape the interview with the child. If the interview cannot be video-taped, it shall be recorded.

2 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill, as amended, grants law enforcement officials and employees of the bureau of child and family services, division for children and youth services, the right to enter public places to conduct an interview with a child who may be abused or neglected, without the consent or notification of the parents of such child.

The bill, as amended, requires that every effort be made to video-tape the interview with the child. If the interview cannot be video-taped, it shall be recorded.

Amendment adopted.

Senator Hounsell offered a floor amendment.

SENATOR HOUNSELL: I did speak with the chairman, Senator Krasker, and also with Senator Podles about this and their indication was that this was a fine idea.

As it's being passed out, for the sake of time, let me discuss it. All it does is, in reference to the employees of the bureau, it adds that they be trained case workers. So, the reading would be: law enforcement

personnel or bureau employees who are trained case workers. I felt, and I hope the Senate agrees, that it would be more proper to have trained people conducting these interviews than someone who wasn't trained in this. So, I urge the support of the floor amendment.

SENATOR KRASKER: I have seen the amendment. I think it does carry out the intent of the legislation. As a matter of fact it tightens it up a little, and I hope the Senate will support it.

SENATOR CHANDLER: Senator Hounsell, I was just reading the proposed amendment and the last paragraph here, down at the bottom, it seems that there is something is missing. It says; if there is reason to believe that the child has been, it cuts right off. It seems that there should be something else there.

SENATOR HOUNSELL: Well, let me turn your attention to the calendar, Senator, and on page 24 of the calendar, let's see if that carries on there.

SENATOR CHANDLER: Oh, yes, I see. I understand it now.

Floor Amendment to HB 964

Amend the introductory paragraph of RSA 169-C:38, IV as inserted by section 1 of the bill by replacing it with the following:

IV. Law enforcement personnel or bureau employees who are trained caseworkers shall have the right to enter any public place, including but not limited to schools and child care agencies, for the purpose of conducting an interview with a child, without the consent or notification of the parent or parents of such child, if there is reason to believe that the child has been:

AMENDED ANALYSIS

This bill, as amended, grants law enforcement officials or employees of the bureau of child and family services, division for children and youth services who are trained caseworkers, the right to enter public places to conduct an interview with a child who may be abused or neglected, without the consent or notification of the parents of such child.

The bill, as amended, requires that every effort be made to videotape the interview with the child. If the interview cannot be videotaped, it shall be recorded.

Floor amendment adopted. Ordered to Third Reading.

HB 1021-FN, relative to the treatment and care of alcohol abusers, substance abusers, and alcohol and substance abusers. Ought to Pass with Amendment. Senator White for the Committee.

SENATOR WHITE: Basically, what this bill does is to require that the commissioner of the department of health and human services certify both the alcohol and drug abuse counselors and also the substance abuse treatment centers. We felt that this was very important and hope that, in the future, similar to what Senator Hounsell has just proposed in the previous bill, that all social workers will be trained if they're working for the State of New Hampshire. We did not incorporate that into the bill. It's basically a lot of definitions in the bill to define exactly the positions and also to change the rule-making from one section of the bill to the other.

The amendment is on page 26 and basically all it says, we added two words and those are: if admitted, the client shall be evaluated. We felt that that was an important addition to the bill. We urge your support of the committee report of ought to pass as amended.

AMENDMENT TO HB 1021-FN

Amend RSA 172:12 as inserted by section 5 of the bill by replacing it with the following:

172:12 Designed Receiving Facilities. If a client manifests both chemical dependency and psychiatric problems, he may be referred to a designated receiving facility of the division of mental health and developmental services on an in-patient basis. If admitted, the client shall be evaluated by a qualified mental health worker and substance abuse counselor for the purpose of recommending an appropriate treatment plan.

Amendment adopted. Ordered to Third Reading.

Senator Blaisdell wished to be recorded as taking Rule 42.

Recess

Out of Recess

Senator Bartlett in the Chair.

HB 1082-FN, relative to irradiated food. Inexpedient to Legislate. Senator Krasker for the Committee.

SENATOR KRASKER: HB 1082 would have prohibited the sale of any irradiated food as it's defined in this bill. This bill came to us at the end of the session. We were provided at the hearing with technical material, conflicting testimony on both sides. I think we all felt that we just did not have the time for an indepth study in the few weeks between the hearing and the executive session. We discussed briefly interim study, amending the law in some way. I was told earlier by the proponents of the legislation that they preferred to reintroduce it themselves in the next session, rather than have us study in the interim. The bill will be reintroduced and I hope that this time it will be reintroduced early so that the necessary information can be given to legislators, so that they understand exactly what irradiated food is. To most of us, it really was a very new topic. While they've been in supply for some years, in 1986 the FDA permitted the use of radiation on fruits and vegetables. In 1984 and 1985, they had already allowed the irradiation of spices and pork, but these foods have not been labeled, so it's very possible that we're eating these foods without knowing it. But, we did learn that whole countries have banned irradiated foods. They're not allowed in England or West Germany or Ireland and there is no irradiated foods available in many other countries. It's not analagous to microwave cooking, because it actually breaks down the molecular structure of food and creates new chemicals. We think it's a subject that is worthy of study and we'll get that in the next session.

SENATOR PRESTON: I just want to make clear that I'm going to vote against the pending motion. I have a great concern as the result of the materials that I have received from folks that addressed the same question in the State of New Jersey, that indicated that it would be possible to eat bad meats and everything, with the treatment given irradiated foods. They've claimed that it's like microwave cooking and that is not true. Microwave cooking is a heating process and this changes the molecular structure of certain foods and, frankly, my opinion is that we should ban it and I'm going to vote against the pending motion before us today.

Senator Chandler moved to substitute Ought to Pass.

SENATOR CHANDLER: So long as there is any doubt in anyone's mind whether irradiated foods are dangerous at all, and evidently there is some doubt in somebody's mind, but I think if there's any chance that it might be dangerous, I think the time to do away with it and prohibit it in the State of New Hampshire is right now and not wait until next session. If we're going to outlaw it next session, let's

outlaw it right now. I hope we can vote ought to pass on this important bill and our diet. There's so much in our diet now that's artificial and preservatives and so forth and so on, that I think we ought to call a halt to it. Protect the health of the people.

SENATOR BOND: I rise in opposition to the pending motion. The committee listened to a considerable amount of testimony on this subject. One of the things that we concluded was that probably people had the right to know whether or not they're going to be eating irradiated food, but there was no evidence that said specifically there was any hazard in irradiated food. There's no residue left; there's nothing added to irradiated food. It might be equated to microwaving. The problem is that there was no flexibility left by the sponsors on finding a way to meet the objections of some people through packaging identification as opposed to outright ban and we found no reason, at this point, to ban outright irradiated food. So, I would urge you to vote down the pending motion and accept the committee's report of inexpedient to legislate.

Division vote: 8 Yeas 14 Nays.

Motion lost.

Question: Inexpedient to Legislate.

Adopted.

HB 846, relative to the possession and dispensing of prescription drugs by non-pharmacists. Ought to Pass. Senator Krasker for the Committee.

SENATOR KRASKER: This bill was requested by the pharmacy board and was supported by the division of public health. It allows practitioners and registered nurses to dispense prescription drugs in clinics operated under contracts with the division of public health services. They are experiencing now financial problems keeping a physician and/or a pharmacists on board to dispense with the prescriptions and so this provides an exception and was agreed on by everyone who came to the hearing.

Adopted. Ordered to Third Reading.

HB 942, relative to treatment by physical therapy. Ought to Pass with Amendment Senator Bond for the Committee.

SENATOR BOND: The amendment that I propose will be found on page 22 of today's calendar. This bill allows certain physical therapists, designated physical therapists II, to practice physical therapy without the referral or prescription and supervision of a licensed doctor, dentist, podiatrist, or chiropractor, so long as such physical therapists obtain consultation with a physician for a patient whose problem is outside the scope of physical therapy or whose problem may require treatment beyond 30 consecutive days.

Any currently licensed physical therapist is automatically qualified as a physical therapist I. The board of registration of medicine shall adopt rules detailing the necessary qualifications for a physical therapist II, and you will find those qualifications on page 22, and regarding the definition of consultation. The board shall license as physical therapists II those physical therapists who apply for and qualify as physical therapists II.

There are many people you can go to today to get treatment in one form or another for physical ailments without licensure. Massagers, athletic trainers, reflexologists, naturopaths and you don't have to have a prescription to go to them. This legislation would eliminate the requirement that you have a prescription to go to a physical therapist, if that physical therapist met certain qualifications established by the board of medicine. There are physicians who supported this and there are physicians who opposed it. The insurance industry indicated that there would be no problems with reimbursement and that it would, in fact, be a cost-saving procedure to allow access to certain licensed physical therapists II. It's our belief that this would be a major advantage. It's presently true in 17 states that you can do this and we recommend that New Hampshire be another.

SENATOR FREESE: I rise in opposition of passage of HB 942, convinced that such passage would be detrimental to the quality of medical care for New Hampshire citizens. Testimony opposed to this bill has been offered from many segments of the health care community, home care association, the Nashua visiting nurses association, the New Hampshire medical society, the hospital association, even several physical therapists have testified in opposition to this bill. This testimony has highlighted many issues which indicate the problems this bill has raised. Foremost of these is the absence of medical diagnostic training for physical therapists. Currently, physicians bear the burden of diagnosis and rightly so. They spend four years of medical school, one year of internship, and three years of residency learning diagnostic skills following a four-year scientific undergradu-

ate background. A physical therapist receives two years of scientific training, after a general two-year academic, non-scientific undergraduate education. Conditions for which physical therapy is indicated are often confirmed only after following sophisticated diagnostic testing, injections, x-rays, and other technologies. Physical therapists have no training to interpret such tests, nor authority to order them. For these reasons, it is inconceivable to allow physical therapists to make complicated medical diagnosis that will risk the health of the population. It is a great concern that physical therapy may replace additional physician medical evaluation leading to improper or delayed treatment. It is also important to note that physical therapy is often ordered as one of the several components in an overall plan of treatment.

Senator White moved to substitute Interim Study.

SENATOR KRASKER: It's certainly going to be cost-effective. In the State of Maryland, which has had it the most, it's showing to be cost effective in keeping health cost down. It's certainly going to give people better access to care. For people with athletic injuries, handicapped children, for people with chronic health conditions, this tight bill, this good bill is going to help them. I urge you to reject interim study. This bill has been studied.

SENATOR HOUNSELL: Good speech, Senator Krasker. I have nothing more to say, I think she said it all and I agree with her.

SENATOR PODLES: I rise in favor of the motion of interim study. Many of the physical therapists are very professional and they're quite competent. However, they are not trained to make medical diagnosis; they can not order or interpret the procedures which are necessary to make the proper diagnosis, nor can they prescribe medication. Physical therapists undergo a five-year educational training as opposed to the twelve years of an orthopedic's training. Their medical knowledge is not comparable. In the area of cost containment, physical therapists do not qualify for health insurance independently. The money would come from the patient's pocket. I ask that you take into consideration the patient's safety when you're voting for this bill and I urge that you vote for interim study.

SENATOR HOUNSELL: Senator Podles, the other day I was reading that there are fewer and fewer doctors moving in to the rural parts of the country and I'm a little bit concerned when I read that knowing my district. Could you tell me, as the needs for medical

attention grows in the northern part of the state and the rural parts of the state, how people might be able to get the care they need if they have to go through a hoop show, that you're talking about, of getting permission here before they can go to that doctor over there or that therapists there? Why can't they chose their own?

SENATOR PODLES: Senator Hounsell, they still have a choice wherever they want to go, to whatever physician they want, but I don't feel that if you are not qualified that you can practice medicine.

SENATOR HOUNSELL: What I'm asking, Senator Podles, is what if they can't find a doctor?

SENATOR PODLES: There are certainly doctors available. New Hampshire is not that big and there are doctors available; there are hospitals; we have a lot of hospitals also.

SENATOR MCLANE: Senator Hounsell, if you had a pain in your back it might be muscular, but it might also might be a ruptured disc or it may be a gall bladder attack. Would you be willing to have a physical therapists diagnosis that problem for you?

SENATOR HOUNSELL: What I am unwilling to do is to stand here at this time and tell the people of the State what they have to expect from health care. They have the capacity, I believe, Senator McLane, to make those type of choices themselves and they don't need this type of protectionism that we're talking about today to protect an industry that's coming down hard here lobbying for their own vested interests.

SENATOR MCLANE: Senator Hounsell, if you had a pain in your neck, would you be surprised to know that it might be a lung tumor?

SENATOR HOUNSELL: No, probably not.

SENATOR NELSON: Senator Krasker, as you know I am a sponsor of this bill, and as a result have listened to both sides of the argument, but I would ask you a question about the amendment on page 22. On roman numeral 2-A, can the physical therapist come from any state, do they have to have their experience in the state or can they have their experience anywhere and come into the state?

SENATOR KRASKER: No, they can come from any place. If they are a licensed physical therapist. That came up at the hearing. Doctors can do it and be licensed; nurses can do it and be licensed. We felt that physical therapists should have the same ability. That's the reason for that.

SENATOR NELSON: In your deliberations and, I know you said your committee worked very hard, did both sides of the argument, if you will, suggest that two years was enough experience to create another level with that amount of experience?

SENATOR KRASKER: That was a suggestion that was brought in by the physical therapist and the doctors did not object to that. We were all sitting in the same room. That's my point, that everything here was an agreed on point.

SENATOR HEATH: I rise in favor of the legislation, opposed to the current motion. It seems to me that what the medical profession is doing, as therapy diversifies and we come up with new, what I'd call light techniques that are not involved in heavy and highly technical medicine, but are scientifically well founded. The medical profession, instead of tending to improving its own lot, it seems to want to franchise every other kind of therapy that exists. It seems to me that if we're going to contain medical cost and we're going to give people the freedom of choice, and some of these diversifications that we're seeing in medicine, whether it's acupuncture or physical therapy or whatever, that we've got to stop giving the medical profession franchises on everybody else's business and specialty and let them operate where they have a central core of information, where they do very well by and large, and let them specialize in their area and those other areas, not give them the franchise because they're not doing the work. They really, it seems to me, could concentrate better on their own specialties if they allowed these other specialties to exist without running them through their business. And, that's the bottom line, I think, It's business we're talking about, not medical competence.

Motion lost.

Question: Ought to Pass with Amendment.

AMENDMENT TO HB 942

Amend RSA 328-A:1, II-a as inserted by section 1 to read as follows:

II-a. "Physical therapist II" means an individual who has:

- (a) at least 2 years experience as a licensed physical therapist;
- (b) engaged in continuing education as established by the board;
- (c) submitted references from 2 physicians with whom the therapist has had a working relationship;

(d) had an interview with the physical therapy advisory committee; and

(e) has met all other requirements recommended by the physical therapy advisory committee and adopted by the board under RSA 328-A:15.

Amend RSA 328-A:11 as inserted by section 4 of the bill by replacing it with the following:

328-A:11 Prohibited Practices. A person licensed under this chapter as a physical therapist II may evaluate and treat human ailments by physical therapy, but shall obtain consultation with a person licensed to practice medicine for a patient whose problem is outside the scope of physical therapy or in order to continue treatment beyond 30 consecutive days. Such evaluation shall be the physical therapist II's assessment of a patient's problem, but the therapist shall not make a medical diagnosis. If, at any time, a patient requires further medical evaluation or diagnostic testing, that patient shall be referred to a physician. A person licensed under this chapter as a physical therapist I shall not treat human ailments by physical therapy or otherwise except under the referral or prescription and supervision of a person licensed to practice medicine, dentistry, podiatry, or chiropractic. A person licensed under this chapter as a physical therapist assistant shall not undertake to practice independent of direction and supervision of a licensed physical therapist. Nothing in this chapter shall be construed as authorizing a licensed physical therapist to practice medicine, osteopathy, chiropractic, or any other form or method of healing except physical therapy. The use of roentgen rays and radium for diagnostic and therapeutic purposes, and the use of electricity for surgical purposes, including cauterization, are not authorized under the term "physical therapy" as used in this chapter.

AMENDED ANALYSIS

This bill, as amended, allows certain physical therapists, designated physical therapists II, to practice physical therapy without the referral or prescription and supervision of a licensed doctor, dentist, podiatrist, or chiropractor, so long as such physical therapists obtain consultation with a physician for a patient whose problem is outside the scope of physical therapy or whose problem may require treatment beyond 30 consecutive days.

Any currently licensed physical therapist is automatically qualified as a physical therapist I. The board of registration in medicine shall adopt rules detailing the necessary qualifications for a physical

therapist II and regarding the definition of consultation. The board shall license as physical therapists II those physical therapists who apply for and qualify as physical therapists II.

Amendment adopted. Ordered to Third Reading.

Senators Johnson, Podles and Charbonneau wished to be recorded as opposed.

Recess

Out of Recess

Senator Blaisdell in the Chair.

HB 352-FN-A, relative to the return of revenue to cities and towns. Interim Study. Senator Bartlett for the Committee.

SENATOR BARTLETT: This piece of legislation had a considerable amount of newspaper print. I would say that the people who favor HB 352 have done an excellent job in trying to promote the fact that this legislature, of both House and Senate, is not responsible. The Ways and Means committee heard testimony on HB 352-FN-A and after careful consideration and review recommends that the bill be sent to interim study.

The committee did this knowing that some associations would claim that the Senate is insensitive to New Hampshire cities and towns and to the people in those communities who pay property taxes. We, in the Senate, know that those statements are not true. In 1978, the state aid to cities and towns, school districts and counties totaled a little over 75 million dollars and, prior to today's vote on HB 1129, the supplemental budget, the aid to cities and towns in 1988 was 188 million dollars plus. This is an increase of 113 million dollars since 1978. An increase of over 100%. We have projected out there of not trying to help the communities.

The proposed legislation mandates that one half of the percentage change in the biennial revenue increases be the increase in the state's revenue sharing. This increase is limited to no more than an eight percent increase from the prior distribution. The distribution would also be reduced in the same manner should revenue decrease. However, the bill calls that the distribution shall not fall below 51 million plus, which means they have their cake and eat it too on this piece of legislation. If, for example, the percentage increase in the general fund revenues were 10%, the revenue sharing based on the present figures of budget would increase 5% or about two and a half

million dollars more or less. If this legislation were in place today, as we addressed HB 1129, the supplemental budget, and increased revenues were adopted to obtain a better picture of current revenues, or about twenty million dollars, we would have had to increase revenue sharing by roughly two million dollars in this biennium. We, today, have made very difficult decisions regarding budget items and some of those items may not receive what we feel is the necessary funding because the money is simply not there. But, this was without this piece of legislation in place. If the legislation were in place you would have had to reduce our spending for needed projects by another two million dollars.

The local communities supported question two, which is the mandate, and I believe that the legislature has not violated that mandate of requiring programs from the state without the necessary funding. This bill is basically a reverse mandate requested by the towns. The bill reduces the flexibility to budget in those areas that the legislature feels are most important. There is a misconception when one feels that a mandated increase in a single item will not carry a reduction in another line item in the same category. Simply, when all is said and done, there is only so much money to go around. It's most difficult to fund programs in times of rapidly declining revenues and HB 352 would add to the problem.

I personally have difficulty understanding when one of the sponsors of HB 352, who wishes the bill to pass so that the local communities will receive some property tax relief, yet the same individual opposes SB 355, unless amended and SB 355 is 12 million dollar distribution to the school districts that we passed out of here. Said the monies might be used to just reduce property taxes in October. I follow the actions of the communities that I represent and I followed their votes on the restricted school budget and I feel comfortable that they did a responsible job. Therefore, I have no objection to the sweeps distribution being used to reduce the local tax to be raised in 1988, but the people who support the bill make no mention of the assumption by the state recently of 75% of the juvenile placement in the state, 25% by county, add the cost in the supplemental budget alone on juvenile placement, is 5.8 million dollars. SB 355-FN, the sweepstakes distribution, and the increase for the mill rate for auto registration that we gave the communities a couple of years ago. I believe it's the bottom line that counts. How many of us write in our checkbooks the portion of the tax bill that we pay that goes to the town, the city, the county and the school district? What really affects the taxpayer is the amount of money, the total amount of the tax

which is paid. You'll please note that the effective date of this bill is July 1, 1989. It's a re-referred bill, a bill which the House looked at for over a year and, yet, they still put an effective date of legislation of July 1, 1989. Concerning the length of time that the House spent reviewing the proposed legislation, I feel that it's only proper that the Senate be allowed the same opportunity. I would not want to pass a bill that would later come back to haunt us. The Senate has always been careful when enacting legislation that will do what it's intended. I urge you to support the committee recommendation of interim study. Thank you and I will answer any questions that one might have.

SENATOR WHITE: Senator Bartlett, if, in fact, we pass this particular piece of legislation, about how much could Rindge expect to save on its property tax?

SENATOR BARTLETT: Well, if Rindge were about the size of Kingston, you'd probably save about \$20,000. I might also say that the town of Merrimack, which is a very large community in the state, which probably has one of the finer combinations of industrial commercial to residential, their city manager testified that the tax rate would be effected 25%, if we pass this legislation.

SENATOR WHITE: That was the point I was getting at, to the particular homeowner, property owner?

SENATOR BARTLETT: About 25% per 1,000 in the town of Merrimack.

SENATOR HOUGH: Had I had the opportunity to be recognized first, I would have grabbed the speech off the table that Martha had and read it instead of letting President Bartlett take the thunder. But, I would tell you this, without any prepared speech, but just speaking from my gut instincts, having been in this State House for the past 17 odd years, that we shouldn't be adopting a report of interim study on a piece of legislation that goes into effect the first day of the next biennium. We ought to be forthright; we ought to be honest and we ought to recognize where we are and we ought to kill this piece of legislation and have it over and done with immediately. There isn't anything to study and we're just playing a shell game if we think we can tell our friends in the House that we're going to spend the next six to twelve months looking at what we know we won't do in the next biennium. I have no reason to question the figures that Senator Bartlett's speech indicated. Right in 1988, the

present fiscal year, we're talking about \$188 to \$189 million of programming that the local communities are receiving from the state and, were they not, otherwise would have to be meeting those services or their citizens would be going without and that's very definitely a fact. We're going to spend; we're going to approve; we're going to pass; we're going to adopt and, if we have to, we're going to do all three with two-thirds of both bodies concurring, and we're going to send back to the communities revenues that have come in from the sweepstakes program over the last year to year and a half, and those are dedicated to the support of local education. So, the communities and the education effort in those communities are going to recognize six million dollars immediately and six million dollars additional after July 1. Now, you put that together and you look at the supplemental budget that we passed this morning. Meager as it may be, but in the first year of the supplemental budget for the biennium, we're making up close to ten million dollars of statutory obligations. Those are commitments that we have made to catastrophic education aid, to school building aid, to settlement, to nursing homes. All of these programs are our charge, our responsibility. If we were to pass, if we were even to consider passing this, if we attempted to pass a piece of legislation as ludicrous as this piece of legislation, with very definitely question two aside, we'd have to stop a great deal of the present programs that recognize and strike equity and balance across the State of New Hampshire. Study this bill if you want, certainly don't pass it into law; don't even meet with your friends in the House; it's not worthy of consideration and, if you were honest, you'd kill it. Thank you, Mr. President.

SENATOR BARTLETT: Senator Hough, would you believe that I'd have no objection if this body defeated the motion of interim study and voted inexpedient to legislate?

SENATOR HOUGH: Yes, I do believe.

SENATOR MCLANE: I may not be as polite as Senator Hough, and I would say that the statement of the Senate President is incorrect. He has figures totaling \$188 million in aid to cities and towns. In my figuring, that's an increase of only \$11 million since 1983. Those increases have been in education aid, somewhat, in the sweepstakes revenue because we went to the tri-state lottery, and about three million dollars in the gasoline tax. But, in the meantime, this is what the state has done to cities and towns. First of all they raised the truck weight and that, obviously, has meant that roads deteriorate faster and so that three million dollars in aid for the last six years for

roads has been wiped out by that. True, they took the 75% of the juvenile placements, but in the meantime the cost has gone up so astronomically that even the counties 25% share, which goes back on the local property tax, is more than they were paying before settlement was passed. We've had the 4% budget reduction, which included state revenue sharing. We've said that they have to pay \$6 a month more for the aid to the old age assistance and we have to pay \$23 a month more for APTD. There's been a 22% increase in the threshold for catastrophic education. We've increased judges salaries and retirement benefits and the communities have had to pay their share. We've increased the share of the retirement system and we've expanded property tax exemptions, in things like adding golf courses and sod farms that the local communities have to pick up the difference. We've enacted the public employee OSHA law. We've mandated health care for former employees and spouses. We've passed the five retirement law changes that change the local government source. We've expanded school district responsibilities for special education costs and for patients of state institutions. We've enacted a cancer presumption in firefighters. All these things we've done to the cities and towns and at the same time that we've given them eleven million dollars in the last six years. I think we ought to pass this bill, because I think we ought to confirm to the cities and towns that, although we think we don't have the money this year, that we understand our obligations to them. For that reason, I think the figure is wrong, that the state aid has increased at all in percentage to how much the costs have increased. I think if you took an honest look at the cost of state aid to cities and towns, you would find that they were in a far worse position than they were in 1983. Any of you that have been to your local town meetings know there is a crisis out there. The cities and towns are asking for our help and I think we've really thrown them down the drain if we do not pass this bill.

SENATOR BARTLETT: Did I hear you correctly, that you're saying the locals are paying for the judges?

SENATOR MCLANE: I did not say that, I'm saying that we passed the judges retirement bill and the locals have a share in that retirement cost. That is just one of the things on the list.

SENATOR BARTLETT: I'm having a little bit of difficulty defining the locals paying a share of the judges retirement when it comes out of general funds. Is that not true?

SENATOR MCLANE: Just a minute and I will read it exactly. We have increased judicial salaries and retirement benefits paid by the communities since January 1984. There is a local share of the judges.

SENATOR BARTLETT: My question, Senator Mclane, is you serve on Finance, you've been a promoter of the judges pay raises and retirement and it's my understanding, and if I'm wrong I'd be happy to be proven wrong, that the judges retirement is appropriated out of general funds alone.

SENATOR MCLANE: I'm sorry, but I believed that there was a portion of the retirement that is paid for by the counties and the local communities for both public employees and for the judges.

SENATOR BARTLETT: Do you have this group of papers that were passed out, the one that shows increased state aid to cities, counties and towns?

SENATOR MCLANE: Yes and I guess my problem is the sheet that I am working from, the comparison of the local general fund over.

SENATOR BARTLETT: Correct, but are you not true that you're just taking one statement and not looking at the total tax bill. The total tax bill is not just made up of towns, it's made up of cities, towns and schools. Is it not true that we've made a tremendous increase in foundation aid?

SENATOR MCLANE: I'm counting foundation aid and that's where I'm saying that your figures are wrong.

SENATOR BARTLETT: And if you refer to these figures then, these are figures that were generated by the legislative budget committee - not me, this is what they have generated and have said that this is the increase. I have a little bit of faith in them, don't you?

SENATOR MCLANE: I have faith in the municipal association, as well, and that's where my figures came from. I think that what they prove is that when you add everything together that state aid, as a percentage of the total cost, has gone down considerably over the last six years. And, that is my statement.

SENATOR DUPONT: Senator, the other night we sat down in Senate Finance until nine or ten o'clock at night making all those hard decisions. I guess my question would be if this law was in effect at the present time, and we had to send some of the money that we had

available the other night to pay for things like head start and day care, which one of those programs would you suggest that we not fund so that we can make these monies available to the community?

SENATOR MCLANE: I'm suggesting that we keep this bill alive and I'm suggesting that we keep it alive because I think that if you kill it, you kill all hope to cities and towns that the state is going to help them with their property tax problems.

SENATOR DUPONT: Senator, I understand what point you're trying to make, but what I'm trying to set up is a scenario where you have to basically come up to bat and make that decision. It's important to me to know what state programs we have that aren't important enough to fund at the present time, so that we can send back some of our existing revenues to the towns?

SENATOR MCLANE: My answer is that I would take a dollar off the salary of the state curator and put it on this bill and send it over.

SENATOR NELSON: Senator Bartlett, I would just like to refer you to the fourth page from the back, on this package of information that you handed out. I wondered if maybe you would give a simple explanation of the unified court system. Is that what you were saying earlier?

SENATOR BARTLETT: You have a unified court system that we passed a few years ago, whether we did it intelligently or not, we did pass it, and that the costs for the unified court as expended are supposed to be coming from the state funds, in total, with the exception of some monies that were carried by the county for rental. I understand that to be phased out.

SENATOR NELSON: I was just reading this, sir, and I wondered if this is on those paragraphs where it says background summary? You see the second zero there where it says, the personnel cost prior to January 1984?

SENATOR BARTLETT: There's no question about where the employees were funded; they were funded there in 1984. All the unified court employees, including the judges, clerks, etc., are paid out of the general fund.

SENATOR NELSON: Right, I just wanted to be sure if that was where it was. Thank you.

SENATOR HOUNSELL: Senator, as I was listening to your questions to Senator McLane, and I thought of something that I wanted to run by you. If there was two million dollars short and if no one wanted to do further cuts in the programs, would it not be the case that we would have to look for some new source of revenue?

SENATOR DUPONT: It's possible, Senator, but you know I think the fundamental issue is now, when we have the money, we put it in to those programs that serve all the citizens of the State of New Hampshire. The person that's paying a property tax in Rochester is also a citizen of the State of New Hampshire as well as Rochester and I don't know of any program that we have over here in Concord that doesn't also serve all the citizens of the State of New Hampshire. So, the municipal association would make you think they are providing some special service to those citizens of the state and that somehow the state isn't doing their job. I think we're doing a very good job, but we're also, when we have the money, we increase funding to programs that we feel we can increase the funding to. I don't consider services such as the state prison or the state hospital or anything like that not a service to our communities because it is. It's not our criminals; it's not the state's criminals; it's the criminals of the communities that we're incarcerating in Concord. We're all serving the same constituency whether it's property taxes or business profit taxes. The answer to your question, basically, is yes, there is not enough funds to do everything that this bill proposes to do at the present time and maintain the level of services that we have out there.

SENATOR WHITE: I rise in support of the pending motion of interim study and I would like to clarify a few issues. Unfortunately for Senator McLane, she's quite wrong. Senator Bartlett is correct. There is no way in the retirement system that we pay for anything towards the judges salary. The state does have a line in the budget wherein we pay a part on a retirement, but that covers only the teachers, the policemen and the firemen that are enrolled under the municipality into the state retirement system. Mr. Andrews often conveniently forgets all the monies that we do give back to the cities and towns and the counties. Today, we did pass an increase on the state portion of the nursing homes. It wasn't as much as we wanted, but you people decided that that was all you could fund in Senate Finance. We also have increased the oil pollution fund that goes back to the cities and towns for clean up. This year, the legislature, we increased the drug enforcement act, whereby more money is going to go back to the cities and towns for their local policemen to help

with the drug enforcement area. One thing, I think, that has not been said at this point is when we did freeze the amount of money going back to the cities and towns, realizing that we had frozen the money at a certain level, we said as we do that we will also increase the millage that you are allowed to receive on your automobile policy. If you look at the town tax that you pay on your automobile registration, you'll see that it's far in excess of what you pay to the state. The reason for doing that was to build in a little bit of inflationary control in the cities and towns. If you ask your cities and towns what you got prior to 1982 and what they get today from their automobile registrations, you will see that there has been a steady increase, as the state has increased, automobile registration has increased; as inflation has increased, the cost of cars has increased, which gives them an automatic increase in their income to the cities and towns. We had a windfall in Rindge the year after that was passed of \$60,000, which almost doubled the amount of money that came back to our town. That was several years ago and now if we're only to get \$20,000, I think the increase in the millage has far outweighed the money that we would from this particular piece of legislation. So, we have done it in various ways to assist the cities and towns. I had asked for that information, but I have never received it in regards to the millage, but that was a great boon to the cities and towns. All you have to do is go back and ask them. That took care of inflation and it took care of growth at the same time and far outweighs this piece of legislation that we have before us.

Question: Interim Study.

Adopted.

Senator Johnson wished to be recorded as opposed to committee report.

Recess

Out of Recess

Senator Bartlett in the Chair.

TAKEN FROM THE TABLE

Senator Stephen moved to take HB 1159-FN off the table.

Adopted.

HB 1159-FN, relative to the Southeast Regional Refuse Disposal District. Ought to Pass. Senator Stephen for the Committee.

Senator Stephen offered a floor amendment.

SENATOR STEPHEN: This is simply a housekeeping amendment because it was left out in a bill that was defeated. It has to deal with any city or town, but the city of Manchester will have the authorization required to continue its solid waste management program. It allows any town or city to sign a contract with a contractor for disposal of waste and that is it.

Floor Amendment to HB 1159-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to the Southeast Regional Refuse Disposal District
and authorizing towns to contract for solid
waste disposal services.

Amend the bill by replacing all after section 6 with the following:

7 Contracts and Leases. Amend RSA 149-M:13 by inserting after paragraph IV the following new paragraph:

V. Towns may contract, upon a majority vote of their legislative body, with the owners or operators of solid waste disposal facilities for the disposal of solid waste. Such contracts shall be for a term of years not to exceed 40 years. The contracts may contain guarantees of the amount of solid waste to be delivered for disposal, may contain provisions for payments based on such guarantees whether or not any subject facility is actually constructed or is operated to dispose of solid waste, and may be absolute, without right of reduction or set-off because of non-appropriation by the town or default by the owner or operator.

VI. Towns may transfer, upon a majority vote of their legislative body, any land interest to the owner or operator of solid waste disposal facilities by deed or by lease of not more than 40 years. Transfer and use of land interests for solid waste disposal facilities shall constitute a public purpose for which towns may acquire land interests in any manner permitted by law.

8 Saving Clause. This act shall apply retroactively to contracts for the disposal of solid waste entered into prior to the effective date of this act; provided, however, that this section shall not be construed to retroactively modify the terms of any contract without the mutual consent of the contracting parties.

9 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

The bill legalizes the regional refuse disposal district agreement adopted by Portsmouth and 14 neighboring towns. The bill authorizes the district to exercise all powers granted such districts under RSA 3-B.

The amended bill allows towns to contract with owners and operators of solid waste disposal facilities and transfer land interests to such owners and operators for the purpose of solid waste disposal.

Floor amendment adopted. Ordered to Third Reading.

RECONSIDERATION

Senator Roberge moved reconsideration on HB 237, limiting the civil liability of volunteers working on behalf of nonprofit organizations and government entities, and to put it on second reading at the present time.

Adopted.

Senator Roberge offered a floor amendment.

SENATOR ROBERGE: This particular amendment is to correct a problem that was caused in legislative services.

Floor Amendment to HB 237-FN

Amend the title of the bill by replacing it with the following:

AN ACT

limiting the civil liability of volunteers working
on behalf of nonprofit organizations
and government entities.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Volunteers; Liability Limited. Amend RSA 508 by inserting after section 16 the following new section:

508:17 Volunteers; Liability Limited.

I. Any volunteer of a nonprofit organization or government entity shall be immune from civil liability in any action brought on the basis of any act or omission resulting in damage or injury to any person if:

- (a) The volunteer had prior written approval from the organization to act on behalf of the organization; and
- (b) The volunteer was acting in good faith and within the scope of his official functions and duties with the organization; and
- (c) The damage or injury was not caused by willful, wanton, or grossly negligent misconduct by the volunteer.

II. Nothing in this section shall be construed to affect any civil action brought by any nonprofit organization against any volunteer of such organization.

III. Immunity conferred by this section shall apply only:

- (a) When the volunteer is not covered by an applicable insurance policy; or
- (b) To the extent that the liability limits of an insurance policy covering the volunteer are insufficient to pay the total amount for which he is liable.

IV. In this section:

(a) "Damage or injury" includes physical, nonphysical, economic and noneconomic damage.

(b) "Nonprofit organization" shall include, but not be limited, to a not for profit organization, corporation, community chest, fund or foundation organized and operated exclusively for religious, cultural, charitable, scientific, recreational, literary, agricultural, or educational purposes, or to foster amateur competition in a sport formally recognized by the National Collegiate Athletic Association, and an organization exempt from taxation under section 501(c) of the Internal Revenue Code of 1986 organized or incorporated in this state or having a principal place of business in this state.

(c) "Volunteer" means an individual performing services for a nonprofit organization or government entity who does not receive compensation, other than reimbursement for expenses actually incurred for such services. In the case of volunteer athletic coaches or sports officials, such volunteers shall possess proper certification or validation of competence in the rules, procedures, practices, and programs of the athletic activity.

2 Effective Date. This act shall take effect July 1, 1988.

AMENDED ANALYSIS

This bill, as amended, provides that volunteers for nonprofit organizations and government entities shall be immune from civil liability for damage or injury resulting from their volunteer activities, under certain circumstances.

Floor Amendment adopted. Ordered to Third Reading.

Senator Hough moved reconsideration on HB 1162, relative to AIDS education, prevention and control and making an appropriation therefor and relative to testing for the AIDS virus for insurance purposes, and to put it on second reading at the present time.

Adopted.

Senator Hough offered a floor amendment.

SENATOR HOUGH: The floor amendment before you is a technical correction that LBA caught in the drafting of this agreed amendment. Under C above the last line, the word "shall" replaces "may" and throughout the rest of the statute. When it refers to commissioner, it's identified as the commissioner of insurance so there's no misunderstanding in that part. This floor amendment is a correction in the policy section of the bill. Senator Krasker is aware of it and the members of the House are aware of it and I urge you to adopt this floor amendment so that the members of the other body can concur and we can have this bill passed and implemented as soon as possible.

Floor Amendment to HB 1162-FN-A

Amend the introductory paragraph of RSA 417:4, XIX(c) as inserted by section 9 of the bill by replacing it with the following:

(c) In the event of a serologic positive test result, a person who tests for the presence of an antibody or antigen to a human immunodeficiency virus shall disclose the test results, but only to:

Amend the introductory paragraph of RSA 417:4, XIX(f) as inserted by section 9 of the bill by replacing it with the following:

(f) The commissioner of insurance shall adopt rules, under RSA 541-A, relative to:

Amend sections 10 and 11 of the bill by replacing them with the following:

10 Report Required. The commissioner of insurance shall make a report no later than January 1, 1991, to the general court relative to the number of persons tested pursuant to RSA 417:4, XIX and the number of persons denied insurance as a result of such test results.

11 Legislative Intent. Notwithstanding RSA 417:4, XIX, the legislature expresses neither approval nor disapproval of the current practice of insurance company testing for the presence of an antibody or antigen to a human immunodeficiency virus.

Floor Amendment adopted. Ordered to Third Reading.

Senator Dupont moved reconsideration on HB 1061, relative to retaining certain state-owned land overlooking Lake Winnisquam, establishing a committee to study the network of airports operating in New Hampshire and relative to purchasing airports, establishing airport districts, and airport property tax base sharing agreements, and put it on second reading at the present time.

Adopted.

Senator Dupont offered a floor amendment.

SENATOR DUPONT: There's two fairly minor changes in the amendment in front of you. The first one is in the first paragraph, where it merely adds in that the study will look at not only the network of airports, but also helicopter landing facilities, which have become something of a premium in the state. Perhaps we can make some provisions for finding space around airports to provide facilities for helicopters as well as airplanes.

The second change is at the request of Senator Pressly and it is nothing more than the allowance of alternates on the airport advisory board in the city of Nashua to serve in place of the regular members. It's fairly simple and I had told her I would take care of it and I had not in the previous amendment. So, that's basically what we're doing.

Floor Amendment to HB 1061-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to retaining certain state-owned land, establishing a study committee on airport networks, and relative to airports and the management of the Nashua Airport Authority.

Amend the introductory paragraph of paragraph I of section 2 of the bill by replacing it with the following:

I. There is hereby established a committee to study and make recommendations relative to the network of airports operating in New Hampshire and helicopter landing facilities in this state. The members of the committee shall be the following:

Amend the bill by replacing section 9 with the following:

9 Alternates Appointed. Amend 1961, 343:4 to read as follows:
343:4 Management.

I. The management of said corporation shall be vested in a board of five directors, to be appointed by the mayor and confirmed by the board of aldermen, one of whom shall be designated as chairman. Not more than three of such members shall be of the same political party. One member shall be appointed originally for five years, a second for four years, a third for three years, a fourth for two years and a fifth for one year. Thereafter each appointment shall be for five years and a member shall serve until his successor shall have been appointed. All members shall serve without salary but they may be reimbursed for expenses incurred in the performance of their duties. The mayor and board of aldermen may at any time remove a director for inefficiency, neglect of duty or malfeasance in office; but no director shall be removed without a hearing, after notice in writing of the charges against him.

II. The mayor, with the confirmation of the board of aldermen, may appoint 3 alternate directors who may attend all meetings. An alternate director shall serve as a voting member only when a regular director is unable or unavailable to fulfill his duties. Not more than 2 of such alternate directors shall be of the same political party. The terms of the alternate directors shall be for 5 years; except that of the initial appointments, one alternate director shall serve for 3 years, one for 4 years and one for 5 years.

10 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill requires the state to retain certain parcels of land running along the shore of Lake Winnisquam that were initially acquired for highway construction. If the land is not used for this purpose, it shall be retained for the benefit of the general public.

This bill, as amended, establishes a committee to study and make recommendations relative to the network of airports operating in New Hampshire and relative to helicopter landing facilities in this state.

The bill requires the committee to submit its report together with recommendations for proposed legislation no later than November 15, 1988.

This bill, as amended, allows the state the right of first refusal if privately owned airports are for sale.

The bill also authorizes municipalities to establish airport districts in which services are provided relating to the maintenance and oper-

ation of airports for public use. The bill provides that all fees, rents and other income generated within an airport district shall be deposited in the airport aeronautical fund established by the municipality.

The bill also authorizes 2 or more municipalities or, with the approval of governor and council, the state and a municipality to enter into cooperative agreements to share their airport property tax bases.

The bill, as amended, allows 3 alternate directors to be appointed to the board of the Nashua Airport Authority.

Floor amendment adopted. Ordered to Third Reading.

Senator Dupont moved reconsideration on HB 794, making capital appropriations and supplemental capital appropriations, and put it on second reading at the present time.

Adopted.

Senator Torr offered a floor amendment.

SENATOR TORR: What it really does is move \$100,000 from the authorization to purchase the Littleton Court House to purchase the federal post office in Rochester and it extends the lapse date to January 1, 1990.

SENATOR DUPONT: Basically, what happened is the state has been negotiating for the purchase of the old post office in Rochester for use as a court facility. At some point in time, the court took over the negotiation and since they've taken over the price has gone from \$100,000 to \$300,000 and it has taken them three years to agree that it's a good deal. So, merely what we're asking to do is for the original \$200,000 appropriation not to lapse and an additional \$100,000. The building is probably worth a million dollars and, if we can buy it for three, we're still getting a good deal. So, that's all I'm asking today.

SENATOR HOUNSELL: A million dollars for the Littleton court house is now reduced to \$900,000. Is it possible for them to complete the transaction that they have going for that amount?

SENATOR DUPONT: It's my understanding, Senator, that at this point in time, they have decided that the leases of that facility will be more advantageous to the state than a purchase.

SENATOR HOUNSELL: I stand up supporting the amendment, but needing to point out that I am amazed to find out that they think that they can lease the facility at Littleton and that's a better deal than purchasing it. At one time I can remember several people talk-

ing about how, if the state could acquire that piece of property, that that could be used for a location up north for several state agencies. I had hoped that that would have been the case and that would have taken place so that the people in that part of the state could be better serviced by the various state agencies that could have taken the benefit of that building. I'm a little disheartened to think that they now have sort of reneged on that and consider the court can just lease a portion of it. I think it's a mistake and I'm just a little upset by it.

SENATOR DUPONT: Senator Hounsell, would you believe I share your concerns and feel that the state has dropped the ball on both of these projects and that they both ought to go forward. I really sincerely think that it's a mistake on both cases that we didn't proceed forward. Both of these appropriations, would you also believe, have lapsed as of last January and they had no intention of going forward of either one of them?

SENATOR HOUNSELL: I am convinced now, Senator Dupont, that when I was told one thing that the intention was otherwise. That they never had the intention of purchasing these programs and I wish they had said so up front. I think that they're making a big mistake, but more than that, I think that I haven't been told the truth.

Floor Amendment to HB 794-A

Amend the bill by replacing section 32 with the following:

32 Administrative Services. Amend 1985, 44:1, IV as amended by 1986, 211:30 to read as follows:

IV. Administrative services

A. Purchase and enhancements of federal district courthouse - Littleton	[\$1,000,000]
	900,000

B. Purchase and enhancements of federal post office - North Main St., Rochester	[\$ 200,000]
	300,000

Total appropriation paragraph IV	\$1,200,000
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Total state appropriation section I	\$3,103,604
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33 Lapse Date Extended; Department of Administrative Services. Amend 1987, 399:41, I to read as follows:

I. The lapse date for 1985, 44:1, IV, A and B as amended by 1986, 211:30, purchase and enhancements of the federal district court-

house - Littleton, and purchase and enhancement of federal post office, N. Main St., Rochester, is hereby extended to [January 1, 1988] January 1, 1990.

34 Effective Date.

I. Paragraph I of section 1 of this act, and sections 21, 22 and 33 of this act, shall take effect upon its passage.

II. Sections 18-20 of this act shall take effect 60 days after its passage.

III. The remainder of this act shall take effect July 1, 1988.

Floor amendment adopted. Ordered to Third Reading.

Senator Dupont moved reconsideration on SB 331-FN, relative to payment for forensic medical examinations of sexual assault victims, whereby we nonconcurred with the House Amendment and requested a committee of conference.

Adopted.

Senator Dupont moved to concur with the House Amendment.

Adopted.

TAKEN FROM THE TABLE

Senator Hounsell moved to take HB 1097-FN off the table.

Adopted.

HB 1097-FN, relative to underground storage tanks. Ought to Pass. Senator Hounsell for the Committee.

Senator Hounsell offered a floor amendment.

SENATOR HOUNSELL: We did, as a committee, recommend that HB 1097 ought to pass and Senator Heath proposed a floor amendment that this body adopted. This amendment before you takes care of some concerns that some of the tri-state gasoline dealers had in regards to the rules that we're implementing with this. They are satisfied with the bill, now that the language will contain the amendment that is before you. We urge your support at this time.

SENATOR DISNARD: Senator Hounsell, the other day the oil dealers were concerned that if you are unable to receive a permit if they couldn't show fiscal responsibility. Has that been solved? How can they get a permit if they can't show fiscal responsibility? If insurance isn't available, they don't have a million dollars, how can they show fiscal responsibility to get a permit?

SENATOR HOUNSELL: Today, the House sent to us and the Senate concurred to SB 322 which was an oil pollution clean up fund. That's called RSA 146-D. As you'll see on your amendment before you, sir, under roman numeral III; an owner shall demonstrate financial responsibility pursuant to rules adopted under proof of eligibility for financial responsibility shall satisfy the requirement of demonstration of financial responsibility under this subparagraph. What that means is what we did earlier this session, with SB 322, which was the oil pollution clean up fund, satisfies the financial responsibilities to the satisfaction to the tri-state gasoline dealers. This was put in at their request and they are now satisfied that that meets their concerns.

Floor Amendment to HB 1097-FN

Amend RSA 146-C:3, I(e), as inserted by section 5 of the bill by replacing it with the following:

(e) Demonstration of financial responsibility pursuant to rules adopted under RSA 146-C:9, VII. Proof of eligibility for financial assistance under RSA 146-D shall satisfy the requirement of demonstration of financial responsibility under this subparagraph.

Amend RSA 146-C:7, III as inserted by section 10 of the bill by replacing it with the following:

III. An owner shall demonstrate financial responsibility pursuant to rules adopted under RSA 146-C:9, VII. Proof of eligibility for financial assistance under RSA 146-D shall satisfy the requirement of demonstration of financial responsibility under this subparagraph.

Amend the bill by replacing section 17 with the following:

17 Adoption of Rules; Federal Action. Notwithstanding any section of this act, the division of water supply and pollution control shall not issue rules pursuant to RSA 146-C:9, VII as inserted by section 11 of this act until the U.S. Environmental Protection Agency has issued its final rules relative to financial responsibility for ownership and operation of underground storage facilities. The division shall adopt such rules not later than 90 days after the issuance of such final federal rules. The rules adopted by the division pursuant to RSA 149-C:9, VII and VIII shall not be more stringent than the federal rules.

18 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

The bill, as amended, extends the authority of the division of water supply and pollution control in its regulation of underground storage tanks. It extends liability for discharges from old underground storage tanks to persons owning or possessing such tanks before they ceased to function. It also requires owners and operators of underground storage tanks to demonstrate financial responsibility in order to receive a permit for such tanks.

The bill requires that operators of facilities immediately notify the owners of any discharge or disposal violating the chapter. Owners who are not operators are not to be held liable for violations of the chapter unless they are notified of the violation, or the owner knew or should have known of the violation in the course of normal business practice.

The bill grants the division of water supply and pollution control authority to inspect and obtain samples at a facility, monitor and test tanks, institute corrective measures, and take any action necessary to abate imminent threats to human health or the environment. Actions can include seeking injunctive relief against violators through the attorney general. The penalty for each violation is increased to \$10,000, with each day of violation counting as a separate violation.

The bill, as amended, directs the division of water supply and pollution control to delay issuance of rules relative to financial responsibility for ownership and operation of underground storage facilities until the federal Environmental Protection Agency issues its final rules on the subject. The division then has 90 days in which to adopt its rules. The rules may not be more stringent than the federal rules.

Floor amendment adopted. Ordered to Third Reading.

Senator Hough moved reconsideration on SB 355, relative to the distribution of sweepstakes revenues, whereby we nonconcurred with the House Amendment and requested a committee of conference.

Adopted.

Senator Hough moved to concur with the House amendment.

SENATOR WHITE: Senator Hough, as I understand it, the House has put an amendment on the bill, restricting the use of the twelve million dollars. Do you think the school districts would not be able to use this for tax reduction if we agreed to their amendment?

SENATOR HOUGH: The amendment that the House put onto the bill relative to sending back the excess sweepstakes monies allows for the local communities to choose, in the first instance, whether they wish to commit this money to education purposes or to use it for other purposes. It allows a number of things that had to be done: number one is that the checks have to be cut within the first 30 days of 1988 or between the 1st and the 31st day of July of this year. The community that receives their excess allotment, if you will, chooses they could hold a public meeting to determine how the first year's increment would be spent. They could do that without the provisions of going to superior court for a special meeting. That's what the amendment does. If they chose to do nothing, that determination could be made the following March in the annual district meeting. Then the second increment's determination would be next March anyway. So, there's choice here. This amendment was drafted specifically by the LBA to allow for the flexibility to allow communities to accommodate whichever point of view one might have relative to this money that they are entitled to.

SENATOR WHITE: Could the school districts spend any of that money without seeking approval from the tax payers?

SENATOR HOUGH: No, they could not.

SENATOR DISNARD: Am I correct when I understood the House amendment that the people would not be allowed to vote this year, before the tax rates are set in October, whether they wish the money for the first checks to go to lower tax rates? It's my understanding, with the House amendment, they wouldn't be allowed to vote until next March and that would eliminate those districts whose people desire, such as Claremont, where the budget went up 1.8 million for schools and a 33% increase for school taxes, they wouldn't be allowed to use that money if they so wished to lower taxes in October. Am I correct?

SENATOR HOUGH: The communities will receive their first year's check between the 1st and 31st day of July. Those communities that choose may hold a public hearing. That public hearing can make a determination of how and for what educational purposes that first increment could be used. There's nothing that requires them to do that and if they fail to do that, then they will make that determination at the annual meeting next March when they will also be making a determination on their second increment.

SENATOR DISNARD: Are you saying, Senator Hough, that the school districts will not be allowed to vote upon the first check to be received in July, whether they'd like to use that money to lower the tax rate that would be set in October of this year? If that's so, I think we should vote this not to concur.

SENATOR HOUGH: No, the local communities, by this amendment, have the opportunity to make the determination how the revenue which they receive will be applied in their own communities.

SENATOR DISNARD: I respectfully suggest, and I may be wrong, that the bill does not allow them to lower the tax rate in the first year. They have to wait until March if they wish to lower the tax rate.

SENATOR HOUGH: I don't agrue that point, Senator Disnard, that can ultimately transpire on their action in March.

SENATOR DISNARD: I respectfully suggest the members of this body if they wish that the communities to be allowed to lower their tax rate with the first check, they should have that opportunity to so vote.

Senator Hough hereby withdraws his motion to concur on SB 355.

Senator Hough moved nonconcurrency and requested a committee of conference.

Adopted.

The President appointed Senators Blaisdell, Dupont and Hough.

INTRODUCTION OF SENATE RESOLUTION

SR 7, concerning the budget of the United States. Ought to Pass. Senator Chandler for the Committee.

SENATOR CHANDLER: This resolution is the result of some conversations I've had with his excellency, Governor Sununu. He was afraid that we, the Senate here in New Hampshire, might be sending a wrong message to the country and sending a wrong message to Congress in Washington, about our views concerning a balanced budget at the federal level. So, I had this resolution drawn up a couple of months ago to explain the way that I thought the Senate here really felt about it. I felt that the Senate here probably, with only one exception, would probably favor a balanced budget at the

federal level. This just affirms that statement. It just says that we favor a balanced budget. It doesn't say anything more or less and also we request that they would adopt a resolution in Congress for a balanced budget, a constitutional amendment, but no constitutional convention. It doesn't mention anything about a con-con. It's just simply an expression of our opinion about a balanced budget and hope that the United States Congress would adopt an amendment that would go to the states to be ratified, without a constitutional amendment, calling for a balanced budget.

SENATOR HEATH: Senator, could you confirm to me that in passing this, if we should do that, that this speaks in no way to HCR 11, that it has no bearing on HCR 11.

SENATOR CHANDLER: It doesn't say anything about a constitutional convention, no. That's what HCR 11 is concerned with, a constitutional convention.

SENATOR HEATH: I just wondered so that it's in the record that our intention in passing this, if we do that, would not be to influence the HCR 11 issue in anyway.

SENATOR CHANDLER: This expresses our opinion of favoring a constitutional amendment that would call for a federal balanced budget. That's what this does. HCR 11 has a different method of doing that.

SENATOR WHITE: Senator Chandler, do you believe by this legislation that we would have to take 33 other states to approve this same thing before it would become effective?

SENATOR CHANDLER: No, no, this is expressing the opinion of the State Senate here in New Hampshire, period. It doesn't require any other ratification by any other body or anything. It just tries to send a message, if we're going to send a message anywhere around the county, that we not send a message that might disturb Governor Sununu.

WHEREAS, the Congress of the United States has the power to pass and amend all budgets of the federal government; and

WHEREAS, the budget of the United States has and continues to operate in a deficit, spending billions of dollars each year in debt service; and

WHEREAS, Congress has failed to pass a balanced budget for many years, thus causing the national debt to increase annually; and

WHEREAS, a constitutional amendment to the Constitution of the United States may be the only way to halt the trend of spending more than is available; and

WHEREAS, Congress has the ability to place a question to the states as to whether or not an amendment of this type should be ratified; now, therefore, be it

Resolved by the Senate:

That the New Hampshire Senate respectfully requests that the Congress of the United States pass a balanced budget; and

That if Congress does not pass a balanced budget, Congress shall ask the citizens of this country to ratify a constitutional amendment requiring a balanced federal budget; and

That copies of this resolution, signed by the President of the Senate, be by him forwarded to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and to each member of the New Hampshire Congressional delegation.

Adopted.

COMMITTEE REPORTS

HCR 11, a resolution concerning the budget of the United States. Ought to Pass. Senator Chandler for the Committee.

SENATOR CHANDLER: As you can see, there's a divided report, three for ought to pass and three for interim study. I was the one that made the motion ought to pass. I think the real question before us now is not whether or not we favor a balanced budget on the federal level. That's not really the issue. The issue is whether or not we want to call a constitutional convention. I'm not going to take up too much time on this, but I'll just point out what everybody knows already, that there has never been another constitutional convention held in the United States since the original one. When the original one was called, they were supposed to do certain things, but when they assembled and got together, they threw out everything and they did as they pleased. They adopted the constitution that we still live under which has been amended several times, but not by a constitutional convention, but by the method of the states approving the various amendments. There have been 16 or 19 amendments creating the income tax and prohibition and a lot of other ones, which we don't need to mention them all. That's the way it's been done before. If a constitutional convention was called, as HCR 11 tries to rescind what the House and Senate here in New Hampshire did in 1979, if it

should be called there's two schools of thought. Some people claim that it can be limited, what they would consider, and some claim that it can be limited to one subject and that Congress could lay down guidelines or rules and regulations of how the convention would be run. Another school of thought claims that you can not limit a constitutional convention once they get together. Congress, itself, does not have an authority, in any way, shape or manner that I know of, to dictate to a constitutional convention what it shall do and what it shall not do. Congress, I don't believe, has that authority. They might take a vote on limiting what the convention could do, but I think that once the convention was chosen, the delegates were elected, and they got together, they could do as they please. I think they could ignore Congress. I don't think Congress has any authority to force them to do one thing or another. So, the constitutional convention, it all depends on who would get elected to it. There would be two people from each state and the congressmen, I think, could run as delegates to the convention. Congress, itself, is part of the problem and if you had them down, you'd have like the prisoners running the jail. You'd have Congress, if they got elected to be delegates, they would do what they wanted to do and they would not carry out the will of the people. I think it's overwhelmingly the people in this country prefer a balanced budget. I think it would be difficult to obtain a balanced budget, but I'd still be 100% in favor of a balanced budget and I think everybody here in this room, except possibly one, would favor a balanced budget. It's up to each one here to examine their own conscience and consider whether or not they want to take a chance to have a constitutional convention. It so happened that, when the New Hampshire legislature voted for it in 1979, it seems to be somewhat of a coincidence that that particular session, I was not a member of the legislature. I ran for office and I got defeated and I was out for a couple of years and that's when in 1979 the legislature called for a constitutional convention. HCR 11, as everybody knows, is to rescind the vote and some people think that's a bad thing to do because it might send the wrong message around the country. I hope that the people here in this room will vote to rescind the 1979 vote.

SENATOR PRESTON: I'm sure you've all received what I have; its a portion of some of the material, plus tapes that were sent to my wife asking if she'd make me listen to this documentary or view it or whatever it was, and the fact that there is so much volume on both sides of the issue makes me very suspicious. The question isn't the merit of the balanced budgets, because both sides, I think, in the Senate agree on that budget issue. So, there's no need to spend a

couple of hours debating. I'm told the vote is set in concrete already on this issue anyway. The question raised is whether a call for special purpose constitutional convention, is it self-constitutional? I'm not sure and I don't think you are and the volume of this conflicting correspondence I think proves my case. The Judiciary Committee in Washington and Congress, I'm told, has ruled that if a convention were called, no amendment could limit it, if the delegates, at a constitutional convention, so voted. Another concern to me is the densely populated States, whose philosophical views could differ from New Hampshire, would have dozens of delegates more than the Granite State, giving us little say in the convention deliberations. In this chamber some years ago, I expressed the fear that a constitutional convention call could conceivably result in every issue, from bottle bills to abortion, being addressed at that time. Every lobby in the country would seek a loophole to see that their particular interest might be addressed. Many say that could happen; many say it could not; many say a runaway convention is a possibility, I'm sure none of us want that. Politicians in various states that voted to call for con-con in the '70's have written, their letters are here, indicating that they have since changed their minds. To suggest that this issue be sent to interim study is in effect a no vote. Who will study it and what will that achieve? Let's stand up and be counted today, one way or the other, on the motion before us. Interim study is a cop-out, just as Graham-Rudman that lets politicians off the hook, not to make the hard decisions on individual issues. We all know the present trillion dollar national debt is intolerable. We all know the Washington politicians have not addressed the balanced budget issue with the same agonizing effort as Senate Finance and the Senators have done this week in this chamber. If all who corresponded with us on this issue kept sending the same message to the administration in Congress, it would be more effective than the efforts for or against the constitutional convention call. I urge you not to let a call or a letter from the White House make up your mind for you. Make use of your Granite State independence and vote for HCR 11. My advice is to urge you to support Senator Chandler's motion of ought to pass and constantly call for more prudent spending in Washington and let's not even think of tampering with the United States Constitution.

SENATOR DISNARD: Senator, I have 287 letters from my constituents asking me to vote against HCR 11. Would you agree with that? That I should follow my constituents wishes?

SENATOR PRESTON: No, I've said it before in this chamber, Senator, once they voted for slavery and that was wrong, and if you were the one person who stood up against that I would have respected you for being right.

SENATOR ROBERGE: In 1979, New Hampshire passed a resolution calling on Congress to pass a balanced budget amendment and submitted the amendment to the states for ratification. If Congress failed to act, the resolution required Congress to convene a constitutional convention for the sole and the exclusive purpose of drafting a balanced budget amendment and submitting the amendment to the states for ratification. The need for a balanced budget amendment is widely accepted and its concept universally understood. However, the process of accumulating states calls for a constitutional convention to force Congress to act on the amendment has been shrouded in a great hysteria. Many well-meaning people have legitimate concerns that should be addressed and others who oppose a balanced budget concept entirely have used this fear to side-track the ground swell of support for the balanced budget amendment.

For the record, I would like to address some of the concerns of those uncomfortable with the 1979 resolution. If called, a convention could be limited, the framers of the constitution, in their wisdom, gave Congress and the states co-equal powers for amending the constitution. Congress has proposed amendments, since the Bill of Rights, the states must then have the ability to limit consideration and proposal of amendments. We're all aware that New Hampshire is one of 32 states calling for a convention to draft a balanced budget amendment. But it is of greater note that currently 36 states, two of the above necessary, have requested a constitutional convention on various topics. Yet, Congress, the convening authority, as designed by the constitution, has not called a convention because it recognizes the right of the states to limit the scope of the convention it would request. Our only other convention was not a runaway. The first convention was called by the Continental Congress with instructions to propose amendments to improve the current form of government. The important steps to follow, however, were taken after the convention had completed its work. The product of the first convention was taken back to Congress with only the recommendation that Congress allow the states to vote for its ratification. Congress then accepted that recommendation and allowed state ratification. The abilities of the states to limit the scope of a convention and further duty of Congress and the Judiciary to uphold and enforce such limitation has long been the consensus of the great majority of constitu-

tional scholars. This position was formalized with a report of the American Bar Association on the constitutional convention in 1974, more than a year before the first state called for a constitutional convention on the balanced budget topic. Since that time, many other organizations have been weighing in similar findings. Most recently, the U.S. Department of Justice has determined that, indeed, such a convention would be limited. The action of our legislature in 1979 was to address a very real danger: runaway deficit spending. The years that have passed between then and now, with the tripling of our national debt, should strengthen our conviction. We should not allow this very real danger to be supplanted by the unfounded fear of a runaway constitutional convention. It should be understood that the greatest safeguard to our constitution is, of course, we the people. No amendment would become law of the land without the consent of those governed. Thirty-eight states must first ratify the product of any convention. We did the right thing in 1979, and today, through a strong defeat of HCR 11, we can reaffirm our original message to Congress. The time to act on a runaway federal spending and mounting debt is now. I urge you to vote the motion down on HCR 11.

SENATOR MCLANE: Senator Roberge, I've been impressed at the support on perhaps both sides of the philosophical spectrum. I am wondering how you feel about the fact that HCR 11 is supported by both the ACLU and the John Birch Society; the University Women and the Eagle Forum; Common Cause and the VFW and the American Legion; Elaine Krasker and Governor Thompson; Senator Hough and Phyllis Schlafly; and myself and the Catholic Bishop. I wonder what you say to that breadth of support?

SENATOR ROBERGE: Senator McLane, I think anybody's mind in this Senate is just as good as any of those people. These people in this room are the people who should make up their own mind on the basis of what they've heard and what they feel is important.

Senator White moved to substitute Interim Study.

SENATOR WHITE: I rise in support of the interim study motion because I think that we should have this issue before us in case suddenly there is a call for a constitutional convention because we might want to, at that point, bring it forward. As you know, it takes 34 states to petition Congress for a constitutional convention. At this point we only have 32 states and I believe that we need to keep the feet of Congress to the fire and that we should not allow them to

get away scot-free from balancing the budget. We are in an incredible period of good economy that we've had for the past eight years. Inflation has decreased. Interest rates have decreased and yet, we have one of the worst deficits ever in the history of this country. People are concerned about a constitutional convention,, but frankly, I'm more worried about the entire country, all of the United States, because that's what I see going out of business. I think it's much more important that we balance our budget at this time, than we fear a constitutional convention. As Franklin Roosevelt said at one point, we have nothing to fear but fear itself. I think those people who are so afraid of holding a constitutional convention have absolutely no faith in any of the people in this country, because, once it is held and they pass various resolutions, it would take three quarters of the states to ratify. I do not see 38 states ratifying something that would completely change the way we exist in this country today. This is an absolute wrong message for the State of New Hampshire to be sending to Washington. We're one of the most frugal states. We're the only state in the country that does not have an income tax or a sales tax, and I find that Senate Resolution #7 was just a little piece of fluff to exonerate ourselves from having to say no to HCR 11. It says, I want to have my cake and eat it, too. I don't think that's the way we want it. We want to send a strong message; we do not want to rescind the call for the balanced budget. As I said earlier, being a debtor nation, to me, is absolutely abhorrent. As you see foreign people coming in and buying up everything that we own in this country, where is our self-respect? We must send the message down to Washington that we want a balanced budget and we want it now. The Senate, the New Hampshire Senate, by its action is going to make history. If we rescind, we would be the first state to rescind its call for a constitutional amendment. In this year of the Presidential nomination, every candidate spoke out in favor of a balanced budget and suddenly we say we do not want a balanced budget. I just do not understand it. I would hope you would support the motion of interim study, keep the feet of Congress to the fire and make them balance their budget. We did it when we had a deficit. Their deficit is roughly the same percentage and their overall spending as New Hampshire's was back in 1982 and I think they can address their problems by cutting spending.

SENATOR FREESE: Senator White, would you believe that I feel very strongly in support of everything you said with one exception. That is the motion that we made before you started your expression. I'm wondering why you feel that we shouldn't vote this up or down, rather than put this in interim study. I don't understand.

SENATOR WHITE: The reason I probably put it in to interim study is because that's a higher precedents than ought to pass. A motion of inexpedient is a lower order and you would have to go back through three motions to get to a semi-killing of HCR 11.

SENATOR CHARBONNEAU: I have received over 800 letters from my constituents and it is one of the most difficult decisions that I have ever been faced with in the six years that I have been in the legislature. Results of today's vote will be far reaching, whatever the outcome. It is my conclusion that each of us can only be guided by our own conscience.

SENATOR HEATH: About a trillion dollars ago, I was in the House in my freshman year and I voted for the resolution. At the time, I thought, and we were told, Congress is going to take this thing off our shoulders and there won't be a real convention. Congress is going to come up with a solution if we put enough pressure on them. Well, Congress didn't. Why didn't they? They can't! They can't do it because they have two interests and that is keeping your taxes down and keeping your services coming. They are always going to do that. Fortunately, the founding fathers that we honor so often in the name of genius, that suddenly people don't trust their genius on this issue. It wasn't genius, because they said there are some things Congress can't do and there has to be an alternative method, another balancing of powers. The alternative method is the method we're going to do if we turn this bill down now and go forward with it. With all the tests and all the self-interested people in this country, it's not going to be a runaway. If that many people approve of something, it's probably good for the nation. The last time they say it ran away, well, we got the constitution; it's the best in the world. I wouldn't worry about it.

What I would worry about is our debt is now 2.4 trillion. Last night, while I was doing my income taxes, ironically, I was listening to the television set, and they were talking about foreign investments. But, the interesting figure is, all the property, public and private and corporate, in this country is only worth 16.5 trillion dollars. We're 2.4 trillion in debt. A seventh of all the property in this country. I came across, this is not an idea original to me, but I came across something that I think will demonstrate that the greater emergency here is the national debt.

An inch of this ribbon equals a billion dollars. (demonstration given by Senator Heath) This is 1953, that's 4.6 billion. There's Eisenhower here, that's 15.4 billion, Kennedy-1963, 12 million a day. Johnson

administration-1963 to 1969, 415 billion. Here's Nixon, getting up towards where I voted for the balanced budget amendment, 648 billion. 1974, 1,259 billion. This is what you're giving your kids. Jimmy Carter, 2,266 billion. You're worried about an amendment to the constitution. It seems to me that you've got a bigger worry here. 1987, 1 trillion. Remember an inch represents a billion dollars.

SENATOR PRESTON: Senator Heath, isn't it true that you just confirmed a point that I forgot to address, that since 1776 to 1981 we had a one trillion dollar deficit, but that ribbon that looped around the room a couple of times was the additional 1.4 trillion that occurred in the last six years under the present administration?

SENATOR HEATH: Senator, I've been waiting for someone to ask that. I'm happy to answer your question. As you know, most of this ribbon represents democratically controlled Congress and they're actually the ones that approve the budgets.

SENATOR CHANDLER: Senator Heath, would you believe that I am aware of the horrendous national debt that we have and as concerned about it as you are, if not more so. Would you believe that?

SENATOR HEATH: I certainly would believe that at least as concerned, but I wouldn't believe that you were more concerned because I don't know how either one of us could be more concerned.

SENATOR CHANDLER: Would you also agree that the question here of calling for a constitutional convention is not necessarily the cure for the national debt?

SENATOR HEATH: Senator, my contention is that there's only one way to cure this and that's to address it. We haven't addressed it. Congress hasn't addressed and it is the overriding issue today. It can bury us very quickly. The service on this debt, if you think of what a billion dollars can do, for how many houses it can build, how many people it can feed, how many jobs it can supply, this whole thing can come crashing down on us. It's a greater issue, is to whether we modify some of the amendments in the constitution. I personally think that there would be riots in the lands and blood on the ground before there'd be any major tinkering with our constitution because whether it's Senator McLane or myself, who often don't see eye to eye, we would both rush to arms, I think, in defense of the major tenets of our constitution. I have no fear whatsoever that that is a great danger than what you have around here. We're passing this on

to the next generation in a way that they can never solve it. If we balanced the budget today, it doesn't pay a penny of this; it just stops adding tape to it. It doesn't pay for it, it just stops adding it on.

SENATOR PODLES: I rise in favor of interim study for HCR 11. In 1979, New Hampshire passed HCR 8 and I have that resolution here. I obtained it from the State Library. It called for the federal constitution convention, limited to the question of a balanced budget amendment. It also contained a provision terminating its effectiveness if a con-con were not limited to a balanced budget. The convention cannot be used for any other purpose. It also stated that if Congress passed a balanced budget amendment to the states, the resolution will be void. The State of Iowa did the same thing, their resolution was worded in a similar fashion. So, the only purpose to pass HCR 11 would be to stop a balanced budget. I don't think New Hampshire should reverse the decision made in 1979. It sends the wrong message, the wrong signal and a weakening on our part. What is wrong with pressuring Congress to do its job? Let them feel the political heat. We are told that there are a couple of reasons that a convention would not be called. Congress would prefer to write the balance budget amendment itself, rather than to allow the convention to write one. Furthermore, the delegate selection process would also encourage Congress to act. Delegates would be elected from each congressional district in the country. Congressmen would realize that many of these delegates representing these same districts would later challenge them for reelection. It would be an incumbent politician's nightmare, a political suicide. A convention delegate taking part in a constitutional convention to write a balanced budget amendment that Congress refused to do. I think that anything, and I believe this, that anything a convention produced, it would still have to go through the ratification process by the state legislature and it would require three-fourths of the states, or 38 states, and I really believe that they would not ratify anything that has sort of an absurd amendment. I urge you to support interim study.

Roll Call requested by Senator Preston.

Seconded by Senator Stephen.

The following Senators voted yes: Dupont, Roberge, Blaisdell, White, Charbonneau, Podles, Johnson, Stephen, Bartlett and Delahunty.

The following Senators voted no: Bond, Hounsell, Heath, Freese, Hough, Chandler, Disnard, Pressly, Nelson, McLane, St. Jean, Torr, Preston and Krasker.

10 Yeas

14 Nays.

Motion lost.

Senator Preston moved to substitute Ought to Pass.

Senator Heath moved indefinite postponement.

Roll Call requested by Senator Heath.

Seconded by Senator White.

The following Senators voted yes: Heath, Freese, Dupont, Roberge, Blaisdell, White, Charbonneau, Podles, Johnson, Stephen, Bartlett, Torr and Delahunty.

The following voted no: Bond, Hounsell, Hough, Chandler, Disnard, Pressly, Nelson, McLane, St. Jean, Preston and Krasker.

13 Yeas

11 Nays

Motion Adopted.

RECALLED FROM THE GOVERNOR

Sentor Dupont moved to recall HB 627, to provide a loss carry forward under the business profits tax and relative to partnership and proprietorship deductions for compensation, from the Governor.

Adopted.

Senator Dupont moved to put HB 627 on second reading at the present time.

Adopted.

Senator Dupont offered a floor amendment.

SENATOR DUPONT: We brought back in HB 627 to make two changes in the bill. On the first page, it originally said January 1, 1988, and on page two, it originally said December 31, 1987. In light of the revenue problems we have at the present time, we felt that we should delay the implementation of this until we're out of this bien-

nium. So, basically, as a result of an agreement that we were able to strike with all the interested parties, including the business community, they've agreed that this is satisfactory. So, all we're asking to do here is not change the content of the bill, just change the implementation date and it preserves our revenues during this biennium and it would go into effect during the next biennium when we can budget for it.

Floor Amendment to HB 627-FN

Amend the bill by replacing section 1 with the following:

1 Net Operating Loss Carryover. Amend RSA 77-A:4 by inserting after paragraph XII the following new paragraph:

XIII. A deduction for the amount of the net operating loss carryover determined under section 172 of the United States Internal Revenue Code as defined in RSA 77-A:1, XX; provided, however, that in calculating such net operating loss carryover, the election permitted under section 172(b)(3)(C) of the United States Internal Revenue Code as defined in RSA 77-A:1, XX shall not be allowed. A net operating loss shall be apportioned in the year incurred according to RSA 77-A:3 and such apportioned net operating loss may only be carried forward for the 5 years following the loss year. The amount of net operating loss generated in a tax year that may be carried forward may not exceed \$250,000. In the case of a business organization not qualifying for treatment as a subchapter C corporation under the United States Internal Revenue Code, such deduction shall be the amount that would be determined under section 172 of the United States Internal Revenue Code as defined in RSA 77-A:1, XX if the business organization were a subchapter C corporation and as limited by this section. A deduction for the amount of the net operating loss carryover shall be limited to losses incurred on or after January 1, 1989.

Amend the bill by replacing section 3 with the following:

3 Effective Date. This act shall take effect upon its passage and shall apply to returns and taxes due on account of taxable periods beginning after December 31, 1988.

AMENDED ANALYSIS

This bill permits business organizations to deduct the amount of the net operating loss carryover allowed under section 172 of the United States Internal Revenue Code from their gross business

profits in order to determine taxable business profits. Through the application of section 172, the net loss carry forward must exceed profit for the preceding 3 years. The amount of net operating loss generated in a tax year that may be carried forward may not exceed \$250,000.

The bill, as amended, does not allow the election permitted under section 172(b)(3)(C) of the United States Internal Revenue Code in calculating the net operating loss carryover.

As amended, the bill specifies that for a business organization not qualifying for treatment as a subchapter C corporation under the United States Internal Revenue Code, the deduction shall be the amount that would be determined under section 172 of the United States Internal Revenue Code if the business organization were a subchapter C corporation, with certain limitations.

As amended, the bill also includes compensation for operating rental property, amounts deemed to be reasonable commissions on the sale property, and other amounts due to services rendered, in the amounts that are fairly attributable to the personal services of the proprietor or partner under RSA 77-A:4, III.

As amended, the bill applies to returns and taxes due on account of taxable periods beginning after December 31, 1988.

Floor amendment adopted. Ordered to Third Reading.

HOUSE MESSAGE

HOUSE REQUESTS CONCURRENCE

SUSPENSION OF THE RULES

Senator Dupont moved that the Rules of the Senate be suspended to dispense with the reference to committee, the holding of a hearing, the notice of a committee report in the calendar, and that the bill be put on Second Reading at the present time.

Adopted.

HB 1208-FN, relative to capital reserve and estimates of unrestricted revenue.

Senator Blaisdell offered a floor amendment.

SENATOR BLAISDELL: All this amendment does is, it's a Senate Finance amendment that strikes out all of the bill on 1208 and puts back in the Senate Finance revenue projection. The House sent it

over, 1208, that uses up all of the capital reserve and substitutes their amendments as far as revenue projections. Senate Finance is presenting you an amendment to this bill, striking it out and putting back in our revenue projections. That's all it does.

Floor Amendment to HB 1208-FN

Amend the title of the bill by replacing it with the following:

AN ACT

relative to estimates of unrestricted revenue.

Amend the bill by replacing all after the enacting clause with the following:

1 Revised Revenue Estimates. The unnumbered general fund paragraph of 1987, 400:25 is repealed and reenacted to read as follows:

GENERAL FUND	1988	1989
Beer	\$ 12,000,000	\$ 12,200,000
Board & Care	15,000,000	15,000,000
Business Profits Tax	150,000,000	156,000,000
Estate & Legacy Taxes	18,000,000	18,000,000
Insurance	40,000,000	40,500,000
Interest & Dividends Tax	28,000,000	28,500,000
Liquor	50,000,000	50,000,000
Meals and Rooms Taxes	78,500,000	84,000,000
Parks Income	5,400,000	5,400,000
Dog Racing	9,000,000	9,000,000
Horse Racing	1,300,000	1,500,000
Real Estate Transfer Tax	34,000,000	36,000,000
Telephone	9,500,000	9,000,000

GENERAL FUND	1988	1989
Tobacco	31,000,000	30,500,000
Utilities	6,700,000	6,900,000
Other	34,210,000	35,267,000
Courts	19,500,000	21,000,000
Savings Bank Tax	8,000,000	8,000,000
Total	\$550,110,000	\$566,767,000

2 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill, as amended, revises unrestricted general fund revenues for fiscal years 1988 and 1989.

Floor amendment adopted. Ordered to Third Reading.

Senator Dupont moved that the Rules of the Senate be suspended to dispense with the reference to committee, the holding of a hearing, the notice of a committee report in the calendar, and that the bill be put on Second Reading at the present time.

Adopted.

HB 1206-FN-A, establishing a joint legislative committee to monitor the Public Service Company of New Hampshire reorganization proceedings, authorizing the employment of an attorney to advise and assist the committee, and making an appropriation therefor.

SENATOR DUPONT: HB 1206 was a bill that was allowed in by the joint rules committee. It appropriates \$75,000 for the purpose of hiring legal counsel to keep the Senate and House advised of the proceedings of the Public Service bankruptcy. It's not for the Senate or the House to participate in the bankruptcy proceedings, but merely to keep the legislature advised as to what is going on in the proceedings. Whether or not we're going to need to get involved at some point in time isn't clear. What's basically been happening is the information that we've been getting either he has to come through the attorney general's office, which we therefore get spooned feed what they want to tell us and not the whole proceeding. So, we will hire legal counsel to keep us abreast of what's going on.

SENATOR NELSON: Senator Dupont, what do you mean that we will hire a lawyer? Is there money in this bill for us to hire a lawyer?

SENATOR DUPONT: Senator, as I explained it appropriates \$75,000 for the purpose of hiring and obtaining legal counsel, which is a lawyer, to monitor the proceedings of the bankruptcy and to advise the Senate and House.

SENATOR NELSON: Senator Dupont, how are we going to get that attorney? How do we choose this legal counsel?

SENATOR DUPONT: The Senate President and the Speaker of the House will select the individual on the recommendation of our staff attorney, which is Don Pfundstein, and the House council is Jim Sweeney.

SENATOR NELSON: Senator Dupont, is this the first \$75,000? Are you going to be coming back for more? Is that enough money to take care of this, for this long process?

SENATOR DUPONT: Senator, would you believe that it is expected that the legal counsels' charges on this whole proceedings will exceed \$100 million dollars at the present time, and the \$75,000 should be adequate for the needs of our body.

SENATOR NELSON: If I vote yes for this \$75,000, am I committing myself to a larger fee down the road, because we're just at the beginning?

SENATOR DUPONT: Senator, I would hope that the bankruptcy proceedings will be over quickly enough so that we would not have to spend even the \$75,000. I'm not an advocate of bankruptcy. This company shouldn't have gone bankrupt and it's unfortunate that we have to spend taxpayers money to find out what's going on. But, unfortunately, it's necessary for this body to be informed and to have the necessary information as to what's happening in this case, which is very critical to everyone in the State of New Hampshire.

SENATOR NELSON: Taxpayers money, though, right?

SENATOR DUPONT: Unfortunately, if you know the bankruptcy laws, you'll realize that all the cost of the bankruptcy proceedings will be passed on to the ratepayers which are also taxpayers.

Adopted. Ordered to Third Reading.

Senator Dupont moved that the Rules of the Senate be suspended to dispense with the reference to committee, the holding of a hearing, the notice of a committee report in the calendar, and that the bill be put on Second Reading at the present time.

HB 1205-FN-A, establishing a low and moderate income housing loan program and making an appropriation therefor.

SENATOR DUPONT: Due to the lateness of the hour, I would ask that we not allow HB 1205 to be brought before the chamber at this point in time. We've already addressed this issue in HB 1204.

Motion lost.

ENROLLED BILLS REPORT

HB 310, relative to a second bridge across the Nashua River in the city of Nashua and making an appropriation therefor.

HB 313, relative to the widening, realignment, and improvement of the Route 3-A and Pinecrest Road intersection in Litchfield.

HB 739, relative to appeals from the denial of building permits in municipalities without zoning ordinances.

HB 754, making an appropriation to acquire abandoned railroad rights-of-way and to rebuild, modernize and maintain the Rochester-Ossipee branch line, and relative to transfer of state railroad property interests to the city of Keene.

HB 798, relative to special function liquor licenses for clubs, certain liquor licenses and permits for nonprofit organizations and hotels, extension of certain liquor licenses to outside areas, and establishing a committee to study state liquor laws.

HB 816, prohibiting the hunting of mourning doves in New Hampshire.

HB 872, regulating risk retention groups and purchasing groups.

HB 894, relative to consideration of water companies as public utilities.

HB 953, relative to a fire protection system for the vault in the state archives and making an appropriation therefor.

HB 995, relative to exemption from the gasoline tax and state license plates.

SB 348, relative to licensing of health care facilities.

SB 351, relative to regional banking.

RESOLUTION

Senator Dupont moved that the rules of the Senate be so far suspended as to allow all bills to be placed on third reading and final passage, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

Third Reading and Final Passage

HB 962-FN-A, relative to the study and design of a ski lodge at Mount Sunapee and making an appropriation therefor, and relative to certain major capital projects and water pollution control revolving loan fund.

HB 1092-FN, amending the 10-year highway plan.

HB 353-FN-A, relative to municipalities acquiring certain housing projects.

HB 1115-FN-A, relative to emergency management expenditures.

HB 1137-FN, relative to reports required by the setting of tax rates for municipalities, counties, and school districts.

HB 873-FN, changing the title of "safety inspectors" to "highway enforcement officers" in the department of safety, providing for independent inspectors for carnival and amusement rides, and relative to the bureau of common carriers.

HB 945, relative to the administrative procedure act.

HB 639-FN, relative to certification of soil scientists and establishing a board of natural scientists.

HB 1133-FN, relative to home rule and municipal charters.

HB 1158-FN, relative to extension of the authority of the division of water supply and pollution control relative to safe drinking water.

HB 594-FN, relative to victims' assistance and establishing a victims' assistance fund.

HB 811-FN-A, establishing a task force to study the issue of spousal impoverishment of victims of Alzheimer's disease and related disorders.

HB 1180-FN-A, increasing the rate for residents of enhanced family care facilities.

HB 1182-FN, relative to rate-setting for children's services, and establishing a committee to study rate-setting for health and human services, children, youth and elderly, and education.

HB 606-FN, relative to the lock up of children and the Anna Philbrook Center.

HB 765-FN-A, relative to the printing of "New Hampshire Historical Markers", and making an appropriation therefor, and relative to a memorial for governor Sherman Adams.

HB 863-FN, relative to an intrastate computer system within the division of state police to record outstanding arrest warrants for

misdemeanors, establishing a police communications specialist position within the division of state police, and making an appropriation therefor.

HB 919-FN, relative to the matching requirements for vocational rehabilitation programs.

HB 1188-FN, establishing age limits for operators of off highway recreational vehicles and amending compliance dates for manufacturers of all terrain vehicles.

HB 990-FN-A, relative to maintenance of court facilities and relative to funding for the planning and design of new district court facilities.

HB 824, relative to AREA school district agreements and relative to staff services to school administrative units, and making an appropriation therefor.

HB 845-FN, relative to the department of corrections, and making an appropriation to the department of corrections.

HB 853-FN, relative to the WIC program, and making an appropriation therefor.

HB 862-FN, relative to solid waste disposal and source reduction and making an appropriation therefor.

HB 1088-FN-A, establishing pilot child care provider recruitment and training programs, and making an appropriation therefor.

HB 1112-FN-A, relative to the Head Start program and making an appropriation therefor.

HB 1163-FN-A, relative to nursing home care costs paid by counties and relative to nursing home grants for the department of health and human services.

HB 1204-FN-A, establishing a grant-in-aid program to provide temporary emergency shelter for the destitute, establishing the affordable housing fund, and establishing a low and moderate income housing loan program, and making appropriations therefor.

HB 847-FN-A, relative to indigent defense and making an appropriation therefor.

HB 748-FN-A, relative to the division of historical resources, creating the position of state curator, and making an appropriation therefor.

HB 814-FN, relative to fines imposed by and the staff of the pharmacy board, and relative to making an appropriation to the pharmacy board.

HB 1129, making supplemental operating budget appropriations, amending the operating budget, and making certain other appropriations.

HB 1103-FN, relative to state-owned surplus real estate to be used to establish affordable housing for low and moderate income persons.

HB 932-FN-A, establishing a New Hampshire film and television bureau.

HB 972, relative to annulments of drug convictions and convictions which may be counted toward habitual offender status, and permitting the director of motor vehicles to review revocation of licenses of habitual offenders for possible restoration under certain conditions.

HB 1128, establishing child support guidelines, and establishing a committee to study child support issues.

HB 940, relative to child support enforcement and paternity.

HB 964, granting law enforcement officials and certain employees of the department of health and human services the right to enter, without the consent of parent or guardian, public places to interview children who may be abused or neglected.

HB 1021-FN, relative to the treatment and care of alcohol abusers, substance abusers, and alcohol and substance abusers.

HB 846, relative to the possession and dispensing of prescription drugs by non-pharmacists.

HB 942, relative to treatment by physical therapy.

HB 1159-FN, relative to the Southeast Regional Refuse Disposal District and authorizing towns to contract for solid waste disposal services.

HB 237-FN, limiting the civil liability of volunteers working on behalf of nonprofit organizations and government entities.

HB 1162-FN-A, relative to AIDS education, prevention and control and making an appropriation therefor and relative to testing for the AIDS virus for insurance purposes.

HB 1061-FN relative to retaining certain state-owned land, establishing a study committee on airport networks, and relative to airports and the management of the Nashua Airport Authority.

HB 794-A, making capital appropriations and supplemental capital appropriations.

HB 1097-FN, relative to underground storage tanks.

HB 627-FN, to provide a loss carry forward under the business profits tax and relative to partnership and proprietorship deductions for compensation.

HB 1208-FN, relative to estimates of unrestricted revenue.

HB 1206-FN-A, establishing a joint legislative committee to monitor the Public Service Company of New Hampshire reorganization proceedings, authorizing the employment of an attorney to advise and assist the committee, and making an appropriation therefor.

Senator Dupont moved that the Senate be in recess until April 19, 1988 at 1:00 p.m. for the sole purpose of receiving House Messages, Enrolled Bill Reports and appointing Committee of Conferences.

Adopted.

Recess

Friday, April 15, 1988

Out of Recess

Senator Bartlett in the Chair.

HOUSE CONCURS WITH SENATE AMENDMENT

HB 743, relative to security deposits on rental property.

HB 811-FN-A, establishing a task force to study the issue of spousal impoverishment of victims of Alzheimer's disease and related disorders and making an appropriation therefor.

HB 812, relative to mutual savings banks.

HB 845-FN, relative to the department of corrections, allowing psychologists to conduct examinations for purposes of nonemergency involuntary admissions and making an appropriation to the department of corrections.

HB 850, exempting motor vehicles carrying washed sand, screened loam and crushed stone from obtaining a cargo insurance policy or indemnity bond.

HB 853-FN, exempting the WIC program from state indirect cost rate requirements.

HB 876, relative to restricting water skiing in certain coves on Squam Lake.

HB 880, relative to certification of water quality laboratories.

HB 887, relative to the jurisdiction of marine patrol officers.

HB 945, relative to the administrative procedure act.

HB 996-A, relative to the state's purchase of the Hillsborough county courthouse and making an appropriation therefor, and relative to asbestos removal in the courthouse.

HB 1041-FN-A, establishing a committee to study and develop a plan for the protection of the Upper Ammonoosuc river watershed.

HB 1115-FN-A, relative to emergency management expenditures.

HB 1133-FN, relative to home rule and municipal charters.

HB 1182-FN, relative to rate-setting for children's services, and establishing a committee to study rate-setting for health and human services, children, youth and elderly, and education.

HB 1000-FN-A, relative to the Christa McAuliffe memorial and making an appropriation therefor.

HOUSE REFERRED TO INTERIM STUDY

SB 356-FN, relative to involuntary admissions under limited circumstances for the developmentally impaired.

HOUSE ACCEDES TO SENATE REQUEST FOR A COMMITTEE OF CONFERENCE

SB 345-FN, relative to disciplinary proceedings conducted by the committee on judicial conduct.

The Speaker appointed Reps. A. Jacobson, Lown, Koromilas and Cote.

SB 315-FN, relative to the personnel appeals board.

The Speaker appointed Reps. Hawkins, McCain, Ward and W. King.

HOUSE REFUSES TO CONCUR WITH
SENATE AMENDMENT

REQUESTS COMMITTEE OF CONFERENCE

HB 1204-FN-A, establishing a grant-in-aid program to provide temporary emergency shelter for the destitute, establishing the affordable housing fund and establishing a low and moderate income housing loan program, and making an appropriation therefor.

The Speaker appointed Reps. Parker, Sytek, Weymouth and W. King.

Senator Blaisdell moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators St. Jean, Bartlett and Preston.

HB 594-FN, relative to county victim assistance programs and making an appropriation therefor.

The Speaker appointed Reps. F. Robinson, Martling, H. Townsend and D. Eaton.

Senator Dupont moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Podles, Dupont and Blaisdell.

HB 606-FN, relative to the lock up of children.

The Speaker appointed Reps. R. Jones, E. Wheeler, E. Robinson and Hager.

Senator Blaisdell moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Krasker, Bond and Blaisdell

HB 758-FN, establishing a committee to study the juvenile justice system and juvenile delinquency, and relative to the age of criminal responsibility.

The Speaker appointed Reps. E. Wheeler, Rodeschin, Lockwood and Pignatelli.

Senator Hounsell moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Podles, Roberge and Nelson.

HB 763, prohibiting the operation of wet bikes on Arlington mill reservoir in the town of Salem.

The Speaker appointed Reps. Dingle, Spear, Phelps and Nelson.

Senator Hounsell moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Hounsell, Freese and St. Jean.

HB 821, legalizing certain town meetings and hearings.

The Speaker appointed Reps. Grodin, Brungot, R. Gage and Normandin.

Senator Dupont moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Johnson, Heath and Krasker.

HB 824, relative to area school district agreements.

The Speaker appointed Reps. Tufts, Hager, Skinner and Yeaton.

Senator Blaisdell moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Disnard, Hough and Johnson.

HB 847-FN-A, relative to indigent defense and making an appropriation therefor.

The Speaker appointed Reps. Sytek, Dexter, Weymouth and Pelly.

Senator Blaisdell moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Blaisdell, Dupont and Bartlett.

HB 862-FN, relative to solid waste disposal and source reduction and making an appropriation therefor.

The Speaker appointed Reps. R. Holmes, Millard, Bowler and Popov.

Senator Hounsell moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Hounsell, McLane and Krasker.

HB 873-FN, changing the title of "safety inspectors" to "highway enforcement officers" in the department of safety and providing for independent inspectors for carnival and amusement rides.

The Speaker appointed Reps. Haynes, Ward, Phelps and Casey.

Senator Dupont moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Dupont, Blaisdell and Delahunty.

HB 921-FN, establishing a joint legislative oversight committee on highway and bridge construction and reconstruction plans.

The Speaker appointed Reps. Palumbo, Pearson, LaMott and Kincaid.

Senator Hounsell moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Torr, Preston and Hounsell.

HB 932-FN-A, establishing a New Hampshire film and television bureau and making an appropriation therefor.

The Speaker appointed Reps. Hawkins, McCain, W. King and LaMott.

Senator Hounsell moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Nelson, Hounsell and Freese.

HB 935, relative to recording plats.

The Speaker appointed Reps. Grodin, Brungot, Baldizar and Normandin.

Senator Dupont moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Pressly, Heath and Stephen.

HB 962-FN-A, relative to the study and design of a ski lodge at Mount Sunapee and making an appropriation therefor.

The Speaker appointed Reps. Pearson, Peyrom, Phelps and Kilbride.

Senator Blaisdell moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Torr, Chandler and Nelson.

HB 972, relative to annulments of drug convictions and permitting the director of motor vehicles to review revocation of licenses of habitual offenders for possible restoration under certain conditions.

The Speaker appointed Reps. C.W. Johnson, Lozeau, Dexter and Hollingworth.

Senator Blaisdell moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators White, Podles and Preston.

HB 990-FN-A, relative to the planning and design maintenance of a new facility for the Concord district court and making an appropriation therefor.

The Speaker appointed Reps. Pearson, Hager, Palumbo and Kincaid.

Senator Dupont moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators St. Jean, Dupont and Bartlett.

HB 1061-FN, relative to retaining certain state-owned land overlooking Lake Winnisquam.

The Speaker appointed Reps. Pearson, DExter, Keans and Levesque.

Senator Hounsell moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Freese, Heath and Preston.

HB 1081-FN, naming a part of route 111 in the town of Windham the Waterhouse Memorial Road.

The Speaker appointed Reps. Pearson, Palumbo, Skinner and C. Jacobson.

Senator Dupont moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Preston, Johnson and Heath.

HB 1088-FN-A, establishing pilot child care provider recruitment and training programs, and making an appropriation therefor.

The Speaker appointed Reps. Bean, Wallner, Lovejoy and Densmore.

Senator Blaisdell moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Krasker, White and Podles.

HB 1129, making supplemental operating budget appropriations, amending the operating budget, and making certain other appropriations.

The Speaker appointed Reps. Scamman, Kidder, Hager, Gross and Densmore.

Senator Blaisdell moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Bartlett, Blaisdell and Hough. Senators Dupont and St. Jean were appointed as alternatives.

HB 1137-FN, relative to reports required by the setting of tax rates for municipalities, counties, and school districts.

The Speaker appointed Reps. Perry, Golden, Normandin and R. Gage.

Senator Hounsell moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Pressly, Charbonneau and Bartlett.

HB 1163-FN-A, relative to nursing home care costs paid by counties.

The Speaker appointed Reps. Schotanus, B. Gage, Bates and Densmore.

Senator Dupont moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Torr, Blaisdell and Dupont.

HB 1171, relative to boating restriction on White Pond and Duncan Lake in the town of Ossipee and prohibiting ski craft on Dublin Lake in the town of Dublin.

The Speaker appointed Reps. Gordon, Malcolm, Hoar and Turgeon.

Senator Hounsell moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Heath, Hounsell and Krasker.

HB 1180-FN-A, increasing the rate for residents of enhanced family care facilities and making an appropriation therefor.

The Speaker appointed Reps. Sochalski, Hager, Densmore and Franks.

Senator Blaisdell moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Blaisdell, Podles and Delahunty.

HB 1200, relative to apportionment of damages.

The Speaker appointed Reps. A. Jacobson, T. Gage, Fraser and Vaughn.

Senator Blaisdell moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Freese, Blaisdell and Roberge.

HB 794-A, making capital appropriations and supplemental capital appropriations.

The Speaker appointed Reps. Pearson, Marsh, LaMott and Matson.

Senator Dupont moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Torr, White and Nelson.

Recess

Out of Recess

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Tuesday, April 19, 1988 at 1:00 p.m..

Adopted.

LATE SESSION

Senator Dupont moved to adjourn.

Adopted.

Adjournment

Tuesday, April 19, 1988

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Lord, we remember the spirit of those whom stood up for their rights, as we celebrate Patriots Day. "Taxation without representation" was the cry"! The midnight ride of Paul Revere! "The British are coming". Somehow or other we have lost the spirit of patriotism in these days! God grant us the power to revive it, in order to survive!

Amen

Senator McLane led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

HOUSE MESSAGE

HOUSE REQUESTS CONCURRENCE WITH AMENDMENT

SB 265-FN, relative to the operation of a bank acquired in a consolidation and to banking department fees and requirements.

Senator Dupont moved to concur.

Adopted.

HOUSE REFUSES TO CONCUR WITH SENATE AMENDMENT REQUESTS COMMITTEE OF CONFERENCE

HB 1208-FN, relative to capital reserve and estimates of unrestricted revenue.

The Speaker appointed Reps. Ward, Hayes, Cowenhoven and Blacketor.

Senator Roberge moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Roberge, Bartlett and Blaisdell.

ENROLLED BILLS AMENDMENT

HB 850, exempting motor vehicles carrying washed sand, screened loam and crushed stone from obtaining a cargo insurance policy or indemnity bond.

SENATOR CHANDLER: This amendment corrects the title of the bill.

Amend the title of the bill by replacing it with the following:

An Act exempting motor vehicles carrying washed sand, screened loam and crushed stone from obtaining a cargo insurance policy or indemnity bond and relative to mineral extraction.

Adopted.

SB 342, amending the certificate of need law.

SENATOR CHANDLER: This amendment corrects a typographical error in section 3 of the bill.

Amend the bill by replacing line 18 on page 1 with the following:

homes including all services and property owned by such. Health care

Adopted.

SB 291, relative to refunds of insurance premiums.

SENATOR CHANDLER: This amendment inserts a contingency provision into the bill which will renumber an RSA section, if SB 319 of this session becomes law.

Amend the bill by replacing section 4 with the following:

4 Contingency Provision. If SB 319 of the 1988 regular session becomes law, RSA 402:80 as inserted by section 1 of this act shall be renumbered as RSA 402:81.

5 Effective Date. This act shall take effect January 1, 1989.

Adopted.

ENROLLED BILLS REPORT

HB 537, relative to regulation of the practice of nursing.

HB 737, relative to appointing alternates for certain members on municipal budget committees.

HB 746, relative to legalizing the Winchester town meeting.

HB 772, providing for the classification of Lake Wentworth.

HB 827, relative to health screening for members of the general court.

HB 833, relative to the defense and indemnification of housing finance authority officials and employees.

HB 848, relative to burials on private property.

HB 900, extending the reporting dates for the cooperative extension service and fire law study committees and extending the report date and appropriation of the environmental risk insurance fund study commission.

HB 902, relative to county foresters.

HB 905, relative to surrogate parents appointed for educationally handicapped children.

HB 959, relative to the future energy supply needs of New Hampshire.

HB 963, relative to certain public utility contracts.

HB 998, relative to liability of manufacturers.

HB 1008, relative to after market parts.

HB 1062, relative to the advisory committee on state economic development and local population growth.

HB 1066, relative to group II of the New Hampshire retirement system and making an appropriation therefor.

HB 1098, establishing a committee to study surrogate motherhood.

HB 1107, establishing a committee to study legislative employees' and constitutional officers' retirement benefits and making an appropriation therefor.

HB 1186, relative to the establishment of inclusionary zoning and accessory dwelling unit standards and development restrictions.

HB 1194, relative to the emergency treatment of step-children.

HB 1199, relative to unemployment compensation and relative to the division of standard and certification, department of education.

SB 243, reinstating the passenger tramway safety board.

SB 283, relative to protective services for adults.

SB 343, relative to liability for expenses of children under the supervision of the division for children and youth services.

HB 743, relative to security deposits on rental property.

HB 762, making supplemental appropriations to the fish and game department.

HB 812, relative to mutual savings banks and mutual holding companies.

HB 880, relative to certification of water quality laboratories.

HB 887, relative to the jurisdiction of marine patrol officers.

HB 996, making an appropriation for the state's purchase of the Hillsborough county courthouse.

HB 1000, relative to the Christa McAuliffe memorial and making an appropriation therefor.

HB 1020, relative to occupational therapists and occupational therapy assistants and making an appropriation therefor.

HB 1041, establishing a committee to study and develop a plan for the protection of the Upper Ammonoosuc River watershed.

HB 1072, appropriating funds to the department of environmental services for a water supply study.

HB 1089, relative to clarifying and changing the penalties under certain forestry laws and relative to deceptive forestry business practices.

HB 1161, relative to health insurance for members of the general court.

SB 275, relative to Skyhaven airport and making an appropriation therefor.

SB 298, relative to student housing at the New Hampshire technical institute and making an appropriation therefor.

SB 341, establishing a position to coordinate child day care services in the office of the commissioner of health and human services and making an appropriation therefor.

SB 297, establishing adult in-home care services for certain persons and making an appropriation therefor.

SB 313, providing a cost of living increase for New Hampshire retirement system group II members, relative to death benefits for beneficiaries of group II members; and relative to health care benefits for retired group II members and retired employees of political subdivisions.

SB 328, relative to sexual misconduct by psychotherapists.

SB 296, relative to the construction of regional vocational education centers and making an appropriation therefor.

SB 331, relative to payment for forensic medical examinations of sexual assault victims, a standardized rape protocol, and making a supplemental appropriation for rape victim services.

HB 811, establishing a task force to study the issue of spousal impoverishment of victims of Alzheimer's disease and related disorders.

HB 845, relative to the department of corrections, and making an appropriation to the department of corrections.

HB 846, relative to the possession and dispensing of prescription drugs by non-pharmacists.

HB 919, relative to the matching requirements for vocational rehabilitation programs.

HB 945, relative to the administrative procedures act.

HB 1115, relative to emergency management expenditures.

HB 1182, relative to rate-setting for children's services, and establishing a committee to study rate-setting for health and human services, children, youth and elderly, and education.

HB 1206, establishing a joint legislative committee to monitor the Public Service Company of New Hampshire reorganization proceedings, authorizing the employment of an attorney to advise and assist the committee, and making an appropriation therefor.

SB 278, relative to aid to assisted persons, and the legalization of certain town meetings and proceedings.

SB 327, eliminating the social security offset provision for group I members of the retirement system and relative to retirement system administration.

HB 853, relative to the WIC program, and making an appropriation therefor.

HOUSE REFUSES TO CONCUR WITH
SENATE AMENDMENT
REQUESTS COMMITTEE OF CONFERENCE

HB 1162-FN-A, relative to AIDS education, prevention and control and making an appropriation therefor and relative to testing for the AIDS virus for insurance purposes.

The Speaker appointed Reps. Sochalski, Bates, Palumbo and Chambers.

Senator Krasker moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Krasker, White and St. Jean.

HB 896, permitting a corporation to limit the liability of its directors in its articles of incorporation.

The Speaker appointed Reps. T. Gage, Palumbo, Reardon and Christy.

Senator Roberge moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Roberge, Chandler and Preston.

HB 237, limiting the civil liability of volunteers working on behalf of nonprofit organizations; establishing a special insurance compensation fund and a process to compensate persons with claims against volunteers.

The Speaker appointed Reps. A. Jacobson, T. Gage, Fraser and Vaughn.

Senator Freese moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Freese, Blaisdell and Roberge.

COMMITTEE OF CONFERENCE REPORTS

COMMITTEE OF CONFERENCE REPORT ON HB 756

The committee of conference to which was referred House Bill 756, An Act prohibiting harassment of police dogs or horses having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 644:8-d as inserted by section 1 of the bill by replacing it with the following:

644:8-d Willful Interference with Police Dogs or Horses. Whoever willfully tortures, beats, kicks, strikes, mutilates, injures, disables or otherwise mistreats a dog or horse owned or employed by or on behalf of a law enforcement agency or whoever willfully interferes or attempts to interfere with the lawful performance of such dog or horse shall be guilty of a misdemeanor for each offense.

Conferees on the Part of the Senate

Sen. Podles, Dist. 16
Sen. Nelson, Dist. 13
Sen. White, Dist. 11

Conferees on the Part of the House

Rep. Johnson, Merr. 5
Rep. Cote, Hills. 25
Rep. Gage, Rock. 13
Rep. Robinson, Straf. 4

Senator Podles moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 803

The committee of conference to which was referred House Bill 803, An Act relative to snowmobile operation and changing compliance dates for ATV manufacturers, having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 Registration. Amend RSA 215-A:21, I to read as follows:

I. Registration of an OHRV does not constitute a license to operate said vehicle on private land. Any person operating an OHRV upon the land of another shall stop and identify himself upon the request of the landowner or his duly authorized representative and, if requested, shall promptly remove said OHRV from the premises. [No person shall operate an OHRV on land of another, without snow cover, unless he has the permission of the landowner.]

2 OHRV Operation on Private Property. RSA 215-A:29, XI is repealed and reenacted to read as follows:

XI. No person shall operate an OHRV on the private property of another unless such operator has obtained written permission from the landowner except as follows:

(a) Verbal permission given to an OHRV club or to the chief of the bureau of off highway recreational vehicles shall be adequate for operating a snow traveling vehicle on trails established by organized OHRV clubs or on trails designated as snow traveling vehicle trails by the chief of the bureau of off highway recreational vehicles. A list and description of such designated snow traveling vehicle trails shall be maintained by the chief of the bureau of off highway recreational vehicles, and such list shall be available to the public upon request. Individuals operating snow traveling vehicles on such trails shall not be required to obtain specific landowner permission.

(b) Verbal permission given to an OHRV club or to the chief of the bureau of off highway recreational vehicles shall be adequate for operating a wheeled OHRV on trails established by organized

OHRV clubs or on trails designated by the chief of the bureau of off highway recreational vehicles as wheeled OHRV trails. A list and description of such wheeled OHRV trails shall be maintained by the chief of the bureau of off highway recreational vehicles and shall be available to the public upon request. Individuals operating wheeled OHRVs on such trails shall not be required to obtain specific landowner permission.

(c) Individuals operating OHRVs on trails designated under subparagraph (a) or (b) shall operate solely on trails as permitted by the landowner. Any individual who operates an OHRV off the trail shall obtain written landowner permission.

3 New Paragraph; Permission Does Not Create a Lien or Irrevocable Right. Amend RSA 215-A:29 by inserting after paragraph XI the following new paragraph:

XI-a. Verbal or written permission given by a landowner to an OHRV club, the chief of the bureau of off highway recreational vehicles, or an individual to permit OHRV operation or trails on his property shall in no way be construed as granting a lien or an irrevocable right to operate OHRVs on said property.

4 ATV Manufacturers. Amend RSA 215-A:12, VIII, IX and X to read as follows:

VIII. No person shall operate, sell, or offer for sale in this state any ATV manufactured after January 1, [1989] 1990, which does not have a working headlight which is designed to stay on at all times that the ATV is in operation.

IX. No person shall operate, sell, or offer for sale in this state any ATV manufactured after January 1, [1989] 1990, which does not have a working brake light on the rear of the ATV.

X. No person shall operate, sell, or offer for sale in this state any ATV manufactured after January 1, [1989] 1990, which is not equipped with a location on the front and rear of the ATV specifically for the placement of registration plates or decals, which measure 3-1/2 inches by 6 inches.

5 Effective Date. This act shall take effect 60 days after its passage.

*Conferees on the Part
of the Senate*

Sen. Preston, Dist. 23
Sen. Hounsell, Dist. 2
Sen. Torr, Dist. 21

*Conferees on the Part
of the House*

Rep. Scanlan, Graf. 11
Rep. Boucher, Rock. 23
Rep. Perham, Hills. 10
Rep. Dionne, Straf. 5

Senator Preston moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 818

The committee of conference to which was referred House Bill 818, An Act relative to the taking of trout having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

Conferees on the Part
of the Senate

Sen. Hounsell, Dist. 2

Sen. Krasker, Dist. 24

Sen. McLane, Dist. 15

Conferees on the Part
of the House

Rep. Dionne, Straf. 5

Rep. Boucher, Rock. 23

Rep. Felch, Rock. 14

Rep. Scanlan, Graf. 11

Senator Hounsell moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 819

The committee of conference to which was referred House Bill 819, An Act relative to the setting of black bear seasons having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 208:4-c, I as inserted by section 2 of the bill by replacing it with the following:

I. Notwithstanding any other provisions of rule or law, the executive director of the fish and game department, whenever he shall deem such action necessary to protect the wildlife resources of the

state, shall have the authority to initiate an emergency closure for any season on wildlife for which an open season has been declared.

Conferees on the Part
of the Senate

Sen. Hounsell, Dist. 2

Sen. St. Jean, Dist. 20

Sen. Freese, Dist. 4

Conferees on the Part
of the House

Rep. Smith, Merr. 20

Rep. Dionne, Straf. 5

Rep. Felch, Rock. 14

Rep. Perham, Hills. 10

Senator Hounsell moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 820

The committee of conference to which was referred House Bill 820, An Act relative to the hunter education program and bow and arrow licenses having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 214:23-b as inserted by section 2 of the bill by replacing it with the following:

214:23-b Program. The executive director, after consultation with the commission, is authorized to establish a program for training persons in the safe handling of firearms and for this purpose may cooperate with any public or private association or organization having as one of its objectives the promotion of safety in firearms handling. The executive director, after consultation with the commission, shall prescribe the type of instruction, qualifications of the instructors, and time and place of examination, the successful completion of which shall qualify a person for said certificate of [competency] completion.

Amend RSA 214:23-d as inserted by section 3 of the bill by replacing it with the following:

SENATOR DUPONT: Midnight if they want to.

SENATOR HOUNSELL: Is it my understanding then, that we are not giving any authority to anyone that denies anyone their opportunity to express themselves when they like and, how they might like, only where they can?

SENATOR DUPONT: That is correct Senator. The bill specifically states that the commissioner shall advance the dual interest of protecting the safety and also, the expressing individual group with ample opportunity to communicate with the public.

SENATOR FREESE: Is it not true, Senator Dupont, that this bill was formulated with the help of the attorney general's office, so that it would be quite positively clear that it would not be unconstitutional for any rights of any individuals, is that not true?

SENATOR DUPONT: That is correct. A particular department head went to the attorney general and tried to address this problem through existing law and was unable to do so. So, this is the recommended language to allow the state to be able to provide safe entry into its buildings for the citizens.

Adopted.

Senators Preson, Hounsell, Johnson, Krasker and Nelson wished to be recorded as opposed.

COMMITTEE OF CONFERENCE REPORT ON HB 625-FN

The committee of conference to which was referred House Bill 625-FN, An Act relative to fees for boats and boat registration, and making certain appropriations having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 7 with the following:

7 Appropriations; Department of Safety. In addition to all other sums appropriated to the department of safety, division of safety services, PAU 02, 15, 03, 01:

I. The sum of \$15,500 is hereby appropriated for the fiscal year ending June 30, 1989, for expenses incurred in issuing the safe boating publication to every person registering a boat for use on public waters of the state.

II. The sum of \$4,090 is hereby appropriated for the fiscal year ending June 30, 1988, and the sum of \$170,000 for the fiscal year ending June 30, 1989, for 2 permanent full-time classified boat education officers, labor grade 15, and 4 seasonal or part-time employees.

III. The sum of \$170,000 is hereby appropriated for the fiscal year ending June 30, 1989, for repairs to the Glendale boat facility.

IV. The governor is authorized to draw his warrant for the sums in paragraphs I-III out of any money in the treasury not otherwise appropriated.

*Conferees on the Part
of the Senate*

Sen. Hounsell, Dist. 2

Sen. Freese, Dist. 4

Sen. Preston, Dist. 23

*Conferees on the Part
of the House*

Rep. G. Katsakiores, Rock. 7

Rep. Gross, Merr. 16

Rep. Hammond, Graf. 11

Rep. Nelson, Coos 8

Senator Hounsell moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 1204-FN-A

The committee of conference to which was referred House Bill 1204-FN-A, An Act establishing a grant-in-aid program to be administered by the division of mental health and developmental services, department of health and human services, to provide temporary emergency shelter for the destitute and making an appropriation therefor, and establishing the affordable housing fund within the New Hampshire housing finance authority and making an appropriation therefor, having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 2 with the following:

2 Appropriations; Bonds Authorized.

I. The sum of \$500,000 is hereby appropriated for the biennium ending June 30, 1989, to the division of mental health and developmental services, department of health and human services, for the purposes of RSA 126-A:43-d. These funds shall be nonlapsing. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

II. The sum of \$1,000,000 is hereby appropriated to the division of mental health and developmental services, department of health and human services, for the purposes of RSA 126-A:43-c. This appropriation shall be a charge against the capital reserve account referred to in 1987, 399:10, II.

Amend the introductory paragraph of RSA 204-C:57, II as inserted by section 5 of the bill by replacing it with the following:

II. The authority shall enter into contracts for grants and loans with eligible applicants according to standards and rules that the authority shall adopt and publish. The authority shall make a good faith effort to approve applications from both for-profit and nonprofit organizations consistent with the criteria established in this paragraph. However, when entering into contracts pursuant to this section, the authority shall give priority to the affordable housing projects which meet one or more of the following criteria:

Amend the introductory paragraph of RSA 204-C:57, V as inserted by section 5 of the bill by replacing it with the following:

V. Prior to granting any assistance pursuant to RSA 204-C:57, II, the authority shall find with respect to each such commitment:

Amend RSA 204-C:57 as inserted by section 5 of the bill by inserting after paragraph VI the following new paragraph:

VII. Prior to granting any assistance pursuant to 204-C:57, II for new construction, the authority shall hold a public hearing in the community in which the proposed project is to be located.

Amend the introductory paragraph of RSA 204-C:62 as inserted by section 5 of the bill by replacing it with the following:

204-C:62 Rulemaking. Notwithstanding RSA 204-C:53, the authority shall adopt rules under RSA 541-A governing the affordable housing fund. Such rules shall include, but shall not be limited to:

Amend the bill by replacing section 7 with the following:

7 Appropriation. The sum of \$4,000,000 is hereby appropriated for the fiscal year ending June 30, 1989, to the housing finance authority for the purposes of section 5 of this act. This appropriation shall be nonlapsing. Allocation of these funds shall be made in 2 installments. Upon the effective date of this act, the housing finance authority shall receive \$2,000,000 of the appropriation. When the housing finance authority determines that this amount has been expended or committed to uses authorized under section 5 of this act, it shall request that the governor and council release an additional \$2,000,000 and the governor and council shall release the same. If the housing finance authority determines that any amount of the funds appropriated under this section are not necessary for the purposes of section 5 of this act, the authority may, with the approval of the governor and council, use such funds for any public purpose consistent with RSA 204-C.

Amend RSA 204-C:66 as inserted by section 10 of the bill by replacing it with the following:

204-C:66 Sale of Property. The authority and the low or moderate income person shall enter into a contract providing that if the property is sold, or no longer owner occupied, the loan provided under this program shall be immediately due and payable. The authority shall determine the profit made from the sale, if any. The authority shall by rule establish procedures for sharing in any profit earned on resale of property purchased under this subdivision. Such rules shall establish a gradual reduction in the authority's share of any profit over time.

Amend the introductory paragraph of RSA 204-C:68 as inserted by section 10 of the bill by replacing it with the following:

204-C:68 Rulemaking. Notwithstanding RSA 204-C:53, the authority shall adopt rules in accordance with RSA 541-A relative to:

Amend RSA 204-C:68, V as inserted by section 10 of the bill by replacing it with the following:

V. Procedures for the determination of net profit, for profit sharing, and for the gradual reduction of the authority's share of profit as required under RSA 204-C:66.

Amend the bill by replacing sections 11 and 12 with the following:

HB 748-FN-A, relative to the division of historical resources, creating the position of state curator and creating the position of assistant director of state planning and making an appropriation therefor.

HB 765-FN-A, relative to the printing of "New Hampshire Historical Markers", and making an appropriation therefor.

HB 814-FN, relative to fines imposed by the staff of the pharmacy board.

HB 863-FN-A, relative to an intrastate computer system within the division of state police to record outstanding arrest warrants for misdemeanors, establishing a police communications specialist position within the division of state police, and making an appropriation therefor.

HB 940, relative to child support enforcement and paternity.

HB 942, relative to treatment by physical therapy.

HB 964, granting law enforcement officials and certain employees of the department of health and human services the right to enter, without the consent of parent or guardian, public places to interview children who may be abused or neglected.

HB 1021-FN, relative to the treatment and care of alcohol abusers, substance abusers, and alcohol and substance abusers.

HB 1092-FN, amending the 10-year highway plan.

HB 1097, relative to underground storage tanks.

HB 1103-FN, relative to state-owned surplus real estate to be used to establish affordable housing for low and moderate income persons.

HB 1112-FN-A, relative to the head start program and making an appropriation therefor.

HB 1128, establishing child support guidelines, and establishing a committee to study child support issues.

HB 1147-FN, prohibiting persons who have been convicted of child pornography, felonious physical assault on a minor, or any sexual assault, from engaging in activities relating to the care of children.

HB 1158-FN, relative to extension of the authority of the division of water supply and pollution control relative to safe drinking water.

HB 1188-FN, establishing age limits for operators of off highway recreational vehicles and amending compliance dates for manufacturers of all terrain vehicles.

HOUSE REFUSES TO CONCUR WITH
SENATE AMENDMENT

REQUESTS COMMITTEE OF CONFERENCE

HB 1159-FN, relative to the southeast regional refuse disposal district.

The Speaker appointed Reps. E. Greene, Bowler, B. McCann and Popov.

Senator Stephen moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Stephen, Pressly and Charbonneau.

Senator Bond moved that the Senate be in recess until April 21, 1988 at 1:00 p.m. for the sole purpose of receiving House Messages, Enrolled Bill Reports and Committee of Conference Reports.

Adopted.

Recess

Out of Recess.

Wednesday, April 20, 1988

Senator Bartlett in the Chair.

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Thursday, April 21, 1988 at 1:00 p.m..

Adopted.

LATE SESSION

Senator Dupont moved to adjourn.

Adopted.

Adjournment

Thursday, April 21, 1988

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Let Us Pray. Thank you Lord for bringing us to the close of this session! We have strived to bring forth the best (not always) of our abilities, but better luck next year! Have a good period of rest with your families and friends - for the balance of the year. "May the Lord watch between me and thee while we are absent one from another".

Amen

Senator Blaisdell led the Pledge of Allegiance.

INTRODUCTION OF GUESTS

HOUSE MESSAGE

HOUSE ADOPTS COMMITTEE OF CONFERENCE REPORTS

HB 818, relative to the taking of trout.

HB 803, relative to snowmobile operation and changing compliance dates for ATV manufacturers.

HB 756, prohibiting interference with police dogs and horses.

HB 819, relative to the setting of black bear seasons and emergency closing of seasons.

HB 820, relative to the hunter education program and bow and arrow licenses.

HB 842, granting county commissioners planning and zoning authority in unincorporated and unorganized places.

HB 885, relative to establishing a boat safety fund; and requiring a boat safety course or administrative fine for offenses while boating.

HB 1080, relative to nongame species and making a continuing appropriation therefor.

HB 1154, permitting the Waterville Estates village district to exceed its debt limitation.

INTRODUCTION OF SENATE BILL

First and Second Reading and Referral

SB 357, relative to legalizing the Seabrook town meeting and establishing the Seabrook Scholarship Fund.

SUSPENSION OF RULES

Senator Preston moved that the Senate suspend the rules to allow an introduction of a Senate bill without notice and holding of a hearing, without committee report previously listed in the calendar and that the bill be on second reading at the present time.

SENATOR PRESTON: This bill came about because it was supposed to be placed on the trailer bill, which will legalize many town meetings. Essentially what this bill does is, if you recall years back, there was an attachment on to a budget for Sunday racing and we removed that and because there was discussion on it, the town felt as though they should have approval. The town has had two town meetings to approve Sunday racing. One of the contingencies was that there would be a donation to a Seabrook Scholarship Fund, \$50 for each race. The town approved this and there are funds now. I think the amount is \$12,000 sitting in an escrow account in a bank. With the current laws the trustees of the trust funds can't withdraw these funds to be used for their intended purpose. This bill essentially legalizes or authorizes the intent of the town meeting to be done. This is the only mechanism I had to address this so they could take out the monies and the selectmen authorized them for the school children or those wherever they are attending school for the fall.

There is a letter from the chairman of the board of selectmen saying that they do support this piece of legislation and thank us for our efforts. It is as simple as that.

Adopted (2/3rds vote required).

SENATOR JOHNSON: Senator Preston, you indicated this was supposed to have gone out onto one of the two bills that are legalizing the series of meetings. I was on one of those two committees and I am not aware of anybody coming forward to make that request. Would you help me understand that?

SENATOR PRESTON: I was told by a representative that it was discussed but, that they were not aware of the urgency of this. It wasn't indicated or proven to them and they see no letters or any-

thing from the town authorities or selectmen. I since have that letter. I don't know why it wasn't put on. As a courtesy, I would have addressed it and that is the only reason I can give you.

Senator Preston moved to put SB 357 on third reading and final passage at the present time.

Adopted.

Third Reading and Final Passage

SB 357, relative to legalizing the Seabrook town meeting and establishing the Seabrook Scholarship Fund.

Adopted.

COMMITTEE OF CONFERENCE REPORTS

COMMITTEE OF CONFERENCE REPORT ON HB 734

The committee of conference to which was referred House Bill 734, An Act relative to posting of bond by administrators of estate having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

Conferees on the Part of the Senate

Sen. Pressly, Dist. 12

Sen. Charbonneau, Dist. 14

Sen. Johnson, Dist. 17

Conferees on the Part of the House

Rep. Robinson, Straf. 4

Rep. Gage, Rock. 13

Rep. Koromilas, Straf. 6

Rep. Arnesen, Graf. 7

Senator Pressly moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 758-FN

The committee of conference to which was referred House Bill 758-FN, An Act establishing a committee to study the juvenile jus-

tice system and juvenile delinquency, and relative to the age of criminal responsibility having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing paragraphs II-V of section 2 with the following:

II. Two members appointed by the chief justice of the supreme court of New Hampshire, who shall be justices of courts having jurisdiction over criminal matters, including at least one district court justice who has experience with juvenile justice matters.

III. The attorney general or his designee.

IV. Two members of the house of representatives, or their designees, appointed by the speaker of the house.

V. Two members of the senate, or their designees, appointed by the president of the senate.

Amend the bill by replacing paragraphs XI and XII of section 2 with the following:

XI. One psychiatric social worker, appointed by the New Hampshire Psychiatric Society.

XII. One person from the division of maternal and child health of the Dartmouth Hitchcock Clinic, appointed by the director of that clinic.

*Conferees on the Part
of the Senate*

Sen. Roberge, Dist. 9

Sen. Podles, Dist. 16

Sen. Nelson, Dist. 13

*Conferees on the Part
of the House*

Rep. E. Wheeler, Hills. 10

Rep. Rodeschin, Sull. 2

Rep. Lockwood, Merr. 6

Rep. Pignatelli, Hills. 31

Senator Roberge moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 821

The committee of conference to which was referred House Bill

821, An Act legalizing certain town meetings and hearings, having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 1 with the following:

1 New Section; Legalizing Meetings. Amend RSA 31 by inserting after section 5-a the following new section:

31:5-b Legalization of Meetings.

I. In the past, irregularities and procedural defects in actions of municipal legislative bodies have been cured by actions of the general court. The procedure in this section is an alternative approach which enables municipalities to effect legalization by local action.

II. Whenever the legislative body of a municipality has voted by the requisite majority to take any legal actions and the vote is subsequently discovered to be procedurally defective because of irregularities such as failure to comply with statutory requirements of notice, vote, hearing, or wording, such defects may be cured and legalized by a vote at a special meeting called for that purpose and subject to the following requirements:

(a) The municipality may, on the authority of the governing body, call a special town meeting for the exclusive purpose of curing such defect.

(b) The special town meeting called for that purpose may not take place less than 21 calendar days after the original vote.

(c) Not less than 7 calendar days prior to the special town meeting, not counting the day of the special town meeting, the governing body shall conduct a public hearing at which the reasons for the special town meeting shall be explained.

(d) The municipality shall comply with all statutory notice and procedural requirements for holding special town meetings.

(e) The necessary majority required to cure the defects shall be the same as the majority as required for passage of the original article.

III. When any procedural defect has been cured under this section, actions of the voters shall be valid as if all statutorily required proceedings had been complied with.

*Conferees on the Part
of the Senate*

Sen. Krasker, Dist. 24
Sen. Johnson, Dist. 17
Sen. Heath, Dist. 3

*Conferees on the Part
of the House*

Rep. Grodin, Ches. 6
Rep. Brungot, Coos 8
Rep. Gage, Hills. 6
Rep. Normandin, Sull. 8

Senator Krasker moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 824

The committee of conference to which was referred House Bill 824, An Act relative to AREA school district agreements having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing sections 4 and 5 with the following:

4 Tilton/Northfield Formula. Amend 1988, 72:5 to read as follows:

72:5 Contingency. Notwithstanding any other provision of law, if the formula is adopted at each town meeting by a majority of the voters present at that meeting, that formula shall supersede any inconsistent provision of 1927, 211. If the formula is defeated at either town meeting, that formula shall fail and the education costs and funding shall be distributed [as established pursuant to 1927, 211] according to the formula in effect prior to the vote.

5 Chapter 72 Effective Date. Amend 1988, 72:7 to read as follows:

72:7 Effective Date. This act shall take effect [60 days after] upon its passage.

6 Effective Date.

I. Sections 1-3 of this act shall take effect July 1, 1988.

II. The remainder of this act shall take effect upon its passage.

*Conferees on the Part
of the Senate*

Sen. Disnard, Dist. 8

Sen. Hough, Dist. 5

Sen. Johnson, Dist. 17

*Conferees on the Part
of the House*

Rep. Tufts, Rock. 13

Rep. Hager, Merr. 21

Rep. Skinner, Rock. 21

Rep. Yeaton, Merr. 7

Senator Disnard moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 594-FN

The committee of conference to which was referred House Bill 594-FN, An Act relative to county victim assistance programs and making an appropriation therefor, having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 Penalty Assessments Increased; Funding of Victims' Assistance Grants. Amend RSA 188-F:31, I to read as follows:

I. Every court shall levy a penalty assessment of [\$2 or 10] 12 percent[, whichever is greater,] on each fine or penalty imposed by the court for a criminal offense, including any fine or penalty for a violation of RSA title XXI or any municipal ordinance, except for a violation of a municipal ordinance relating to motor vehicles unlawfully left or parked.

2 Funding of Victims' Assistance Grants. RSA 188-F:31, IV is repealed as reenacted to read as follows:

IV. The clerk of each court shall collect all penalty assessments and shall transmit 83 percent of such assessments monthly to the police standards and training council. The council shall pay over all moneys collected by it under this chapter to the state treasurer for deposit in the police standards and training council training fund. The clerk shall transmit the remaining 17 percent of such assessments to the state treasurer for deposit in the victims' assistance fund.

3 New Subparagraph; Victims' Assistance Fund. Amend RSA 6:12, I by inserting after subparagraph (y) the following new subparagraph:

(z) The assessments collected under RSA 188-F:31, for the victims' assistance fund shall be credited to the victims' assistance fund, until that fund exceeds \$300,000, at which time moneys in excess of \$300,000 shall revert to the general fund.

4 New Section; Administration of Victims' Assistance Fund. Amend RSA 21-M by inserting after section 8-b the following new section:

21-M:8-c Administration of Victims' Assistance Fund.

I. Subject to the availability of money in the victims' assistance fund, the attorney general shall make grants from the victims' assistance fund, for the establishment and maintenance of victim assistance programs. The attorney general may, in awarding funds under this section, give preference to those counties not already served by a victim assistance program.

II. A victim assistance program is eligible to receive grants under this section if such program:

(a) is within the office of a county attorney; or

(b) is operated by a public agency or a private nonprofit organization or a combination of such agencies or organizations and provides services to victims of crime, and

(1) demonstrates a record of providing effective services to victims of crime and financial support from sources other than the fund; or

(2) substantial financial support from sources other than the fund.

III. A victim assistance program shall expend sums received under this section only for providing services to victims of crime.

5 Effective Date. This act shall take effect July 1, 1988.

*Conferees on the Part
of the Senate*

Sen. Podles, Dist. 16

Sen. Dupont, Dist. 6

Sen. Blaisdell, Dist. 10

*Conferees on the Part
of the House*

Rep. Robinson, Straf. 4

Rep. Martling, Straf. 4

Rep. Townsend, Graf. 13

Rep. Lussier, Straf. 8

Senator Podles moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 847-FN-A

The committee of conference to which was referred House Bill

847-FN-A, An Act relative to indigent defense and making an appropriation therefor, having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after section 2 with the following:

3 Pilot Program; Indigent Defense. It is the intent of the general court that RSA 604-A:9 be implemented to the fullest extent possible and that all fees and costs provided by the state on behalf of an indigent defendant which are recoverable shall be recovered. Therefore, the general court establishes a pilot program to be administered by the commissioner of administrative services. This pilot program shall terminate on June 30, 1989, unless authorized to continue by the legislature. In order to implement this pilot program the commissioner of administrative services shall:

I. Subject to the provision of paragraph III, be responsible for determining eligibility of defendants for the public defender program, contract counsel, and assigned counsel.

II. With the approval of the attorney general, adopt rules, pursuant to RSA 541-A, governing eligibility determinations, the method for pre-qualification, forms to be executed under oath subject to the penalties of perjury, the actual process to be followed relative to eligibility determinations, and any other matters regarding eligibility he deems necessary to fully implement section 3 of this act. These rules shall apply to defendants who claim eligibility for the public defender program, contract counsel, and assigned counsel.

III. (a) Unless the court finds extenuating circumstances requiring an immediate determination relative to a defendant's eligibility, the commissioner shall make a decision relative to a defendant's eligibility and a recommendation to the court in regard to the defendant's ability to pay all or a portion of the costs incurred for counsel. In the event that the defendant disagrees with the commissioner's decision on eligibility or his recommendation relative to the defendant's ability to repay the state, the defendant shall have the right to appeal to the court having jurisdiction over the alleged offense within 7 days of notification of the commissioner's findings. The court shall give the defendant an opportunity to be heard and shall render its decision within 7 days of the filing of the appeal. In the

event that the court rejects, overrules or modifies the commissioner's decision or recommendation, the court shall include in its order written findings specifically outlining why the commissioner's decision or recommendation was not sustained. In the event that there is no appeal, the court shall issue an order relative to the defendant's responsibility to reimburse the state after consideration of the commissioner's recommendation.

(b) In the event that the court finds extenuating circumstances requiring an immediate determination relative to a defendant's eligibility, the court shall make its eligibility determination in an order which shall include specific findings of extenuating circumstances and shall forward a copy of said order and the approved application to the commissioner. The commissioner shall conduct a financial investigation and make a recommendation relative to the defendant's ability to pay all or a portion of the costs incurred for counsel. Upon receipt of the commissioner's recommendation, and after consideration thereof, the court shall enter an order relative to the defendant's responsibility to reimburse the state. In the event that the court rejects, overrules or modifies the commissioner's recommendation, the court shall include in its order written findings specifically outlining why the commissioner's recommendation was not sustained.

IV. Be responsible for collections of court ordered reimbursements.

V. Enter into a cooperative agreement with the commissioner of corrections for collection of court ordered reimbursements.

VI. With the approval of the attorney general, adopt rules pursuant to RSA 541-A, with regard to determination of repayment schedules, financial and credit investigations, and other matters related to collections procedures which the commissioner deems necessary to fully implement section 3 of this act.

4 Temporary Positions Authorized for Pilot Program. The department of administrative services is authorized to employ full-time temporary personnel to administer the pilot program established in section 3.

5 Report. The commissioner of administrative services shall make an interim report on or before December 1, 1988, and a final report on or before June 30, 1989, to the speaker of the house, the senate president, and the governor, on his activities, findings and recommendations under sections 3 and 4 of this act.

6 Applicability. The provisions of section 3 of this act shall supersede any conflicting provisions of RSA 604-A until the pilot program terminates.

7 Effective Date.

I. Section 2 of this act shall take effect January 1, 1989.

II. The remainder of this act shall take effect upon its passage.

*Conferees on the Part
of the Senate*

Sen. Blaisdell, Dist. 10

Sen. Dupont, Dist. 6

Sen. Bartlett, Dist. 19

*Conferees on the Part
of the House*

Rep. Sytek, Rock. 20

Rep. Dexter, Belk. 8

Rep. Weymouth, Graf. 2

Rep. Pelley, Straf. 10

Senator Blaisdell moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 763

The committee of conference to which was referred House Bill 763, An Act prohibiting the operation of wet bikes on Arlington Mill Reservoir in the town of Salem having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 270:74, III, IV, and V as inserted by section 1 of the bill by replacing them with the following:

III. The department shall adopt rules pursuant to RSA 541-A, to designate areas where ski craft shall not be operated.

IV. After October 1, 1988, a person may operate a ski craft on the lakes and ponds of the state except in areas which are prohibited by the department and those lakes and ponds specifically prohibited by RSA 486 and other legislative acts.

V. Any person operating a ski craft shall wear a personal flotation device which is Coast Guard approved type 1 or 2.

Amend the bill by deleting RSA 270:75 as inserted by section 1 of the bill.

Amend section 2 of the bill by replacing it with the following:

2 Study Committee Established; Duties; Report.

I. There is hereby established a committee to study issues concerning personal watercraft and ski craft as defined in RSA 270:73. The committee membership shall be as follows:

(a) Two members of the senate, or designee, appointed by the president of the senate.

(b) Two members of the house, or designee, appointed by the speaker of the house.

(c) Two members of the general public appointed by the governor.

(d) The commissioner of safety or his designee.

(e) One member of the Marine Dealers Association.

(f) One member from the watercraft industry.

II. The committee shall choose a chairman at the first meeting.

III. The members of the study committee shall serve without compensation, except that all legislative members shall be reimbursed for mileage incurred at the legislative rate.

IV. Secretarial and staff assistance shall be provided by the house of representatives.

V. The committee shall study issues surrounding the use of the watercraft and ski craft on the ponds and lakes of New Hampshire. The committee study shall review, but shall not be limited to, the following areas:

(a) The need to regulate or restrict watercraft and ski craft.

(b) The need for establishing pilot programs on small ponds to determine the effect of watercraft and ski craft on these water resources.

(c) The need to review the noise level associated with watercraft and ski craft.

(d) The need to prohibit owner modification of factory designed muffler systems and the method of enforcement of such provisions.

(e) To review safety issues associated with boating generally with particular interest on watercraft and ski craft.

VI. The committee shall prepare a report describing its work and recommendations. Copies of the report shall be given to the governor, the speaker of the house, and the president of the senate no later than December 15, 1988.

Amend the bill by replacing section 4 with the following:

4 Ski Craft Prohibited. Notwithstanding the provisions of RSA 270:74, III and IV, the operation of ski craft as defined in RSA 270:73, V on the lakes and ponds of the state of less than 75 acres and those lakes and ponds specified as follows, shall be prohibited:

- I. Arlington Mill Reservoir in the town of Salem.
 - II. Thorndike Pond in the town of Jaffrey.
 - III. Harrisville Pond in the town of Harrisville.
 - IV. Nubanusit Lake in the towns of Nelson and Hancock.
 - V. Skatutakee Pond in the town of Harrisville.
 - VI. Spoonwood Pond in the towns of Nelson and Hancock.
 - VII. Silver Lake in the town of Harrisville.
 - VIII. Granite Lake in the town of Stoddard.
 - IX. Laurel Lake in the town of Fitzwilliam.
 - X. Swanzey Lake in the town of Swanzey.
 - XI. Little Squam Lake in the towns of Holderness and Ashland.
 - XII. Big Squam Lake in the towns of Sandwich and Moultonboro.
 - XIII. Dublin Lake in the town of Dublin.
 - XIV. Forest Lake in the town of Whitefield.
 - XV. Mendums Pond in the towns of Nottingham and Barrington.
- 5 Effective Date. This act shall take effect October 1, 1988.

*Conferees on the Part
of the Senate*

Sen. Hounsell, Dist. 2
Sen. Freese, Dist. 4
Sen. Krasker, Dist. 24

*Conferees on the Part
of the House*

Rep. Dingle, Straf. 4
Rep. Spear, Straf. 2
Rep. Phelps, Merr. 1
Rep. Nelson, Coos 8

Senator Hounsell moved to adopt the Committee of Conference report.

SENATOR JOHNSON: Senator Hounsell, what does Roman III really mean? The part that says the department shall adopt rules to designate areas where ski craft shall not be operated.

SENATOR HOUNSELL: What that means, Senator, is that this HB 763, if passed, will give the department of safety rule-making authority to restrict the operation of jet skis in certain bodies of water as petition after holding a public hearing.

SENATOR JOHNSON: Would those rules apply to bodies of water not covered by this amendment?

SENATOR HOUNSELL: As you are aware, the Senate version of HB 763 restricted and prohibited the operation of jet skis on all bodies of water except four. That was unacceptable to the House. The Senate version also allowed that the department could open up certain bodies of water. The House disagreed with that; they wanted

to allow for the department to restrict. In this conference committee, the Senators agreed that they would allow for the department to use rule-making to restrict the use, which is sort of different from the Senate position of allowing them to open up bodies of water.

SENATOR JOHNSON: Could that rule-making authority then be used in regard to a specific body of water within the state?

SENATOR HOUNSELL: Yes it could.

SENATOR JOHNSON: How would that be put into motion, any move to restrict jet skis on a lake?

SENATOR HOUNSELL: Those would be contained in the rules; 541 allows that rules have to be subject to public hearing. It is my understanding that the rules would be similar to the rules that the department uses now, safety services uses now, in that they will hold public hearings to restrict other motor boats.

SENATOR NELSON: Senator Hounsell, I noticed that there are 15 lakes and ponds that you have chosen to prohibit skiing on. What about the rest of the lakes in this state?

SENATOR HOUNSELL: Well, there are those that are listed by name and location. However, there are also between 3 and 400, I don't know the exact number, probably more than 400 I would have to say at this point, ponds that are less than 75 acres that are also restricted that aren't named. So, you are talking probably around 450 total.

SENATOR NELSON: I notice that there is no one here representing any of these associations of people who live at lakes where they have these associations. You only have dealers and water craft industry but, not people who, in fact, live and pay dues on these associations. Any reason for not having that group on that list?

SENATOR HOUNSELL: Quite frankly, this was the House position. I would be happy to put them on there because my position has been, I think, reflective of some of the things that they desire. I would point out, though, that under Section 2, Roman I, paragraph C, that two members of the general court could be appointed by the Governor and then the Governor could make those appointments to bring that type of balance into place.

SENATOR NELSON: So, in fact, it is too late now to do what you said would be okay to do about adding people. Is it not too late to do that; we have to support this now or kill it?

SENATOR HOUNSELL: My understanding of the procedure at this date, is that you either take this one or you don't take it.

SENATOR DUPONT: Senator Hounsell, I used to water ski on a private pond. Does this in any way inhibit that individual to use a jet ski on his private pond if it is under 75 acres?

SENATOR HOUNSELL: No, we are talking about public bodies of water.

SENATOR DUPONT: You are sure of that?

SENATOR HOUNSELL: I am sure enough that I would say that to the record and I would suspect that, as I worked with Doug Patch and Dick Flynn and others of the department, that that is their intent as far as the enforcement of it.

SENATOR PRESTON: I am going to be consistent. I oppose this bill. It is a regulation that I don't think is needed nor deserved at this time. I am shocked at some of the proponents, particularly Senator Hounsell, who is always supporting the rights and freedom of individuals to do certain things, and I spoke to him privately about this. These bills deserve public hearings for each lake.

This reminds me of the rivers bill. Whatever politician was there at the time adds a lake. There is no particular sensitivity to these as there is compared to others. These range in size from 120 acres up to 7,000 acres. Really, I think it is an insult to private enterprise. I think it is a public affront to the citizenry that might own these. I question, really, I have never seen anything done backwards like this before. You said the prohibited uses are on these particular lakes. That is great for the politicians that are up here. The others have to come forth where they may really have a problem and they have to have a hearing to see what happens and the rules will be adopted. This doesn't include just jet skis or thrill craft; it could include airboats, emergency airboats that may be prohibited in a rescue because of this piece of legislation. This is a silly thing to accommodate whims of people at the last moment. It hurts people that have tied up money in inventories; it is anti-small business and it does address people who may have similar concern because they weren't in the know with the politicians. I urge you to vote no of this on principal for private enterprise.

SENATOR MCLANE: The hearing that we held on jet skis went on for a very long morning and then went on into the next day. I believe that there was ample evidence at the hearing that jet skis are a

cause of pollution and they are a cause of noise pollution. They also are dangerous. Apparently the fun in jet skis is for two of them to go at once, you rarely see one alone and, the real fun is to follow along behind a motor boat and try and jump the waves. Obviously, within 150 feet of the boat. It was our conclusion that those lakes that we had hearings on should definitely be listed as banning jet skis and that was a unanimous decision of our committee. The expansion of this bill has met with great approval by the lakes association and those landowners that live on these lakes. I think Mark has worked extremely hard with the lobbyists and don't tell me they aren't there. The marine dealers are in and out of the House and they have lobbyists that were there at all of the hearings and at the work the subcommittee did. I feel that this is a necessary bill to preserve part of New Hampshire that is important to all of us.

SENATOR PODLES: Senator Hounsell, rather than prohibiting jet skis on these waters, has it been considered that jet skis go on these lakes at a certain time when it is not busy? Has that been considered in your committee?

SENATOR HOUNSELL: That was brought up in testimony by a person representing Kawasaki. It was brought up in such a way as to admit that the use of jet ski is a nuisance to those people and obnoxious to those people who are not using jet skis. We felt, and I feel that, although there may be a place for that and that is what the study committee can look at, that there was enough testimony presented to support the prohibition of jet skis on the bodies of water and everything under 75 acres.

SENATOR HEATH: Senator Preston, I don't understand how you can stand there and talk about this being the whims of the moment, having just introduced a piece of legislation that was a whim of the moment when there was plenty of opportunity. Didn't those bills that those lakes that are included on there, didn't they have hearings in the House; weren't they passed by the House; weren't they sent over; haven't we had lobbyists flown in from California who apparently couldn't speak but could wiggle into the room and do their testimony. Haven't the people from Kawasaki and the other companies sent in lobbyists that have been pacing up and down the halls? How do you call this a whim of the moment?

SENATOR PRESTON: I responded to foolish questions in comparisons before and I will to you at this time. To compare, to what was just done to legalize a bill for scholarship dollars to allow trustees to

take the money to put where it belongs, can't be compared to a whim of the moment such as this. I don't know anyone that owns a jet ski. I have not been talked to by any particular Yamaha representative or anything. I am just addressing the principle. I think it is wrong. If there are lobbyists running around the halls, frankly, I am not up here for the lobbyists. If Senator McLane spoke and said that they are all over the place, they haven't changed my mind. I spoke against this originally. This is being done backasswards. You have a hearing after you prohibit some and others have to have a hearing. You have never followed a piece of legislation like that before.

SENATOR HEATH: Senator, aren't you aware that many of our rules and regulations on the lakes have traditionally been that they set aside, like in rafting legislation and the mooring legislation, set aside certain things, others are allowed in after the hearing.

SENATOR PRESTON: There are 3 or 400 other bodies of water that may or may not have a greater need to prohibit such activities. Why not hold hearings and see what those are instead of picking ones that certain politicians in their area knew about and eliminating the rest. It doesn't make sense.

SENATOR HEATH: Wasn't there opportunity, as in the ponds that are listed there, for the people who were in the lakes associations for those groups to come in if they had wanted that kind of legislation, as the people did whose ponds are represented there?

SENATOR PRESTON: I don't think all of the people that live around, even these ponds listed, were aware that they were going to be added to this list. If I'm not incorrect, I remember 4 or 5 bills that address 4 or 5 bodies of water. I really don't think they had that opportunity; if you do, we disagree.

SENATOR WHITE: I rise in strong support of the committee of conference and commend Senator Hounsell on being able to pass what he was able to pass under the problems that he faced. All of the particular towns and lakes that are listed in here, were listed on separate bills that came over from the House. The Senate Development, Recreation and Environment Committee tried to combine everything into one bill so that we would have one package. That is why you have them all listed here. They were originally on several different bills. I can attest to a lot of them in my district and the people did know about it and they support it. The problem is our lakes are losing their attractiveness. So, I urge your support of the committee of conference.

SENATOR HOUNSELL: There are a few things that I want to address, as we address this committee of conference report, Senator Preston. In the four sessions that I have been with you, I have noticed a trend. That is the last day, sir, you get to be quite a show boat. I am amazed that a man who says he supports liberties would stand on the floor of this body and allow for the taking away of liberties as far as a person's decision whether or not they know enough to put on a seat belt. A man who talks about freedom taking away people's money by supporting the ongoing efforts to stop a nuclear power plant that is needed in this state. Take away the freedoms of liberties by the pocketbook and by their right to make their own decisions. I'm speaking louder, Senator, so you might hear me in the anteroom. I also think it is kind of strange that you would say that you don't share the same mind as the lobbyists. Senator, they were lobbying your position.

The issue here isn't whether or not we are taking liberties from people or after we have gone to protect vested interest, that being, "your small business friends"; the question here is if we are going to allow that the special jewels that we call our lakes and ponds are going to be preserved in some sort of consistent manner. They are not an infinite size; they are finite. They are only so big. They can only take so much activity. Senator Preston, I will remind of this testimony, even those people who ride the jet skis admit that they are a nuisance to everyone else.

The Senate had a position that followed the introduction of five House bills banning the use of jet skis. The Senate has done the responsible thing in saying, we are going to set up a procedure by which these special bodies of water can be considered. There is nothing wrong with us considering the bodies of water that appear in the bill today. People came and testified for them. People talked for them. Yes, people did talk against them but, when it comes down to it, if you care about the lake, if you care about the quality of life in New Hampshire, if you wonder why people are still attracted to it, you might start thinking what would happen if all of those precious inventories that you are defending today, Senator, might be also added to the finite bodies that we have. We have before us a compromise position. I'm not fully happy with it. I suppose there are many people who are going to vote for it who aren't fully happy with it. We have a problem facing us and I think that this is going to at least curb the introduction of several bills, which I know, Senator Preston, you don't want to see come in time and time again, restricted. This addresses a very real problem and I am surprised that you don't

acknowledge the problem. This is a solution to that problem. Perfect, I can't say that; necessary, absolutely.

SENATOR NELSON: Senator Hounsell, this study committee is a study committee in which you have been very specific as to the areas in which you would like this group to explore. Then you have another study committee that you want to study regulations; then you want people involved to study other kinds of things. I ask you, how on the one hand did your committee of conference reach the fact that you want to study it and then before you study it you have now banned skiing, prohibited it on certain lakes? How is it that you arrived at doing some of the study's work before they have begun the study?

SENATOR HOUNSELL: I thought that that study committee was unnecessary at this time but, since the House members who have a say in this, as the signatures indicated, insisted upon studying it, I was willing to compromise that to protect what I declare an endangered specie.

SENATOR NELSON: At that time, Senator Hounsell, knowing that they wanted a study in it and you wanted to go forward, did you see at any time that we should not be prohibiting it until we have all the facts in House?

SENATOR HOUNSELL: No.

SENATOR STEPHEN: Senator Hounsell, I was with you on this issue before. Just listening now to Senator Preston and other people, you referred the court the regulation, you are against regulations. It is bothering me that, are we going to stop people from riding their motorcycles; are we going to mandate seat belts; are we going to regulate people? That is what bothers me with this issue.

SENATOR HOUNSELL: This isn't an issue of regulation; this is an issue of protection. This is an issue of acknowledging that jet skis are a nuisance. There is no constitutional right or legal right that someone has to be a nuisance to their neighbor. It isn't regulating it; it is prohibiting it.

SENATOR STEPHEN: It seems to me like it is regulation. It is like stopping people from riding a motorcycle, because it makes noise.

SENATOR HOUNSELL: I disagree. I don't think that motorcycles, every time they are ridden, they are a nuisance. I believe that every time a jet ski is ridden, it is a nuisance.

SENATOR ST. JEAN: I rise in opposition of the pending motion. I was on the committee of conference and I wasn't about to sign on the committee of conference. So, I was asked to be removed to protect the orderly flow in this body. Last time I knew, this state was a tourist state. I suspect the closest that some people can get to Big and Little Squam, which would be jet skis will be banned under this pending piece of legislation, is the movie "On Golden Pond". If, as it is argued here this afternoon, that jet skis are in fact a nuisance, then why don't we ban them across every lake in this state? I don't believe that at all. I did listen to a portion of the testimony. If the problem is jet skis, then I think that there should be some regulation, and those individuals that should be allowed to use them, perhaps should be 16 years of age or older or times in which they can be used. I don't think that the way we are about to pass this is any way to do it. I heard from a number of people in my district. Those individuals happened to own jet skis. The only way that they are going to get on Big and Little Squam Lake may well be a jet ski, because as we know, there is very limited access to those lakes. I firmly believe that this is the wrong way to go and we ought not to be passing this legislation, at this time.

SENATOR FREESE: I have been a member of the committee of conference on this bill since it was formed. You may not remember but, this Senate passed this bill when it was a lot more restricted than it is right now, last week. We had four lakes on it that were not restricted. All the rest of the lakes in the State of New Hampshire were restricted, and yet, you supported it at that time, and the ones that weren't restricted were Winnepesaukee, Newfound, Winnisquam and Sunapee. I am not totally comfortable with this bill, but it is a compromise. It is a compromise to get something on the books at this present time, October 1, 1988, to do something about a problem that is out there. We have got two sets of victims. We have got the victims that want to raise the dickens on these ski jets without concern of the laws of the State of New Hampshire and we have got, if you call them victims and some of them treat these vehicles correctly but, there are a certain percentage of them out there that don't. Then we have got the victims on the smaller ponds that have to listen to the noise and have to put up with them crossing the bows of the boats and the sterns of the boats. I feel that this is a suitable committee of conference report; we worked hard on it to get it to be more liberal in its form. We have discussed this with the manufacturers of the vehicles. We have discussed this with the lobbyists that represent them. I wouldn't say that it was a total meeting of the

mind but, there is a lot of give and take and this is what we have got. I hope you will decide to support the committee of conference report on HB 763.

SENATOR JOHNSON: Senator Hounsell, isn't the real issue the protection of our fragile lakes and that this bill is intended as an attempt to protect those fragile lakes?

SENATOR HOUNSELL: Senator Johnson it is just that. We have had several bills that have come before this body and several times it has been the clear message that I have received from the members of this body to give a lot of consideration to the quality of our resource. For that reason I am a little surprised given that this version is less restrictive than the version that we had already passed, that Senator Freese had indicated. I think that the thing is that everyone is forgetting that there is an October 1, 1988 date which acknowledges, and that's the Senate's position, that we are not going to put the hardship on people this session. The study committee will be formed, another legislative session will begin, bugs can be worked out. But this Senate has always done the responsible thing when it comes to protecting its resources. It has done that consistently in the last two years. I am a little confused as to why we wouldn't want to continue that at this time.

SENATOR JOHNSON: So, the issue really isn't jet skis, that is only incident to the overall protection of the lakes of New Hampshire, is that true?

SENATOR HOUNSELL: That is correct.

SENATOR BLAISDELL: Senator Hounsell, you know I live on Spofford Lake and it is about 10 1/2 miles around, it is a pretty big lake and that is not in there, of course. What is the procedure, say if that Lake Spofford Association would like to vote on prohibiting jet skis in a certain area?

SENATOR HOUNSELL: Those people would then go to the department who would hold a public hearing within the area of the lake, I would suspect Keene. At that time, they would take testimony from all sides and would make a determination as to what areas of the State or the Lake should be restricted, or, they could use time of day. I think that is a responsible thing because it talks specifically to the needs of that lake.

SENATOR BLAISDELL: As you know Senator, the most important part that is being left out, I think, is the enforcement. Why we

don't have better enforcement on the lakes of the State of New Hampshire. Was that ever discussed in the committee?

SENATOR HOUNSELL: That was discussed in the committee and that has been addressed in a bill that is coming up today, which is 625, which has the support of a lot of people, in fact no opposition, which provides for funding for more enforcement people. We are doing that also. I would also like to point out if people are looking at that list that I don't know of a single one in district 2.

SENATOR CHANDLER: Senator Johnson, I was wondering if you could explain to the Senate in what way would this bill protect the lakes?

SENATOR JOHNSON: It would keep these vehicles from being operated on shallow areas, stirring up the bottom. It would protect the lakes by not allowing them to go in to the loon nesting areas. It would further protect the town beaches, such as up in Franklin and Northwood. Those are some of the protections that would be built in here.

SENATOR CHANDLER: Could you explain to me how it would protect Webster Lake in Franklin or the beach, how would it protect the beach?

SENATOR JOHNSON: It wouldn't protect the beach so much as the swimmers on the beach.

SENATOR DUPONT: Senator Hounsell, I don't particularly care for these vehicles either and I can understand everyone's concern but, there is fifteen bodies of water that are listed in here. We set up a procedure for allowing a lake to be shut down via the public hearing process. I would just like to know, one of these towns is in my district, whether any public hearing was held at Mendums Pond, relative to shutting Mendums Pond down?

SENATOR HOUNSELL: I can't tell you that there was a public hearing on Mendums Pond. There was not one that I was involved in.

SENATOR BOND: Just to underscore, particularly for the benefit of those who don't live in tourist areas, who live in more densely populated areas like Manchester and Nashua, that our tourism appeals to people more than just those who come to the state for thrills and spills. We have to have some bodies of water left for those who

like peace, quiet and fishing. The ambiance of New Hampshire is more than excitement. It's peace and quiet. This bill is an effort that involves a lot of compromise both in the House and the Senate part by reducing from 100 acres to 75 acres, 150 more lakes were made available. You wouldn't believe the number of lakes we have in New Hampshire. There is a hearing process. The named ponds are those that were in the original, I believe, most of them were in the original House versions as they came to be heard in the Senate. So, there isn't a lot of stuff being railroaded through. I urge you to support this committee of conference report.

SENATOR NELSON: Senator Bond, would you believe that the people from the South strongly supported the land trust to save land and that the people from the Southern part of the State, or if you will in the densely populated areas, also vacation in the State of New Hampshire and also contribute to the economics in the summer as well as out-of-staters, to the northern part of this beautiful country?

SENATOR BOND: Yes, I do, Senator Nelson. I would be interested in what that has to do with jet skis? In other words, why do you leave your habitat to come to our habitat?

SENATOR NELSON: Would you believe that many of the people who live in the Southern part of the state, even though they don't have their winter home in the North, in fact, own property in the rest of the state!

SENATOR HEATH: I don't think that you are ever going to see a tee shirt with a Kawasaki jet ski on it. You see loon shirts all over the place. Squam Lake is one of the focal points. Here is where the revival of the interest and saving of loon began, where it has been most successful and you see that people who ride these things chasing them down. That does kill them. They dive, they come up and dive and pretty soon they don't come up.

Here we have interests colliding. We came to a reasonable agreement. The Senate passed, with hardly any voice of opposition in here, a much tougher bill. It got watered down in compromises with the House. The Japanese sent the Lobbyists over here in unbelievable numbers and poored money into this effort because they see another industry that they can take jobs away from Americans and they can start a whole new thing. I don't want to see them do it at the cost of our lakes. People come to look at Squam Lake and our smaller ponds, not to see a motorcycle gang running around making

a lot of noise but, to see a natural environment. We have to protect some of those and we have conflicts of interests between bird watchers, sportsman, power boaters, canoers and sail boaters. If we regulated it, and this is no different, it is in the tradition of saving these lakes for tourism, for recreation and for the natural heritages that they represent. I urge you to stay with this very delicate compromise.

SENATOR STEPHEN: Senator Heath, I don't want to regulate anything. All I know that I was with Senator Hounsell on this issue. I had telephone calls that people who have jet skis are against this. As far as the mourning doves, I'm not regulating the mourning doves. It is the people that have spoken out as sportsman in this State. I want you to understand that, I am not regulating anyone.

SENATOR HEATH: Senator, in response to your question, would you believe that you had phone calls from people with jet skis as has some others who are beginning to buckle on 9 or 10 phone calls because those people are identifiable through sales and receipts of dealers. People who oppose these have no way of being collected on a list and a phone bank paid for by a Japanese trade competitors, identified and called and harrassed, as I have been and all of us have been by these people. There is no way to focus in on the people who were on the opposite opinion on this. We have to represent them.

SENATOR STEPHEN: All I am saying is that, the calls that I get, I understand what you are saying, but we are still mandating people.

Roll Call requested by Senator Charbonneau.
Seconded by Senator Freese

The following Senators voted yes: Bond, Hounsell, Heath, Freese, Hough, Roberge, Blaisdell, White, Pressly, McLane, Podles, Johnson, Torr, Delahunty and Krasker.

The following voted no: Dupont, Chandler, Disnard, Nelson, Charbonneau, Stephen, St. Jean and Preston.

15 Yeas

8 Nays

Committee of Conference adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 12

The committee of conference to which was referred House Bill 12,

An Act recodifying the workers' compensation law, having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 281-A:2, XI as inserted by section 2 of the bill by replacing it with the following:

XI. "Injury" or "personal injury" as used in and covered by this chapter means accidental injury or death arising out of and in the course of employment, or any occupational disease or resulting death arising out of and in the course of employment, including disability due to radioactive properties or substances or exposure to ionizing radiation.

Amend RSA 281-A:2, XIII as inserted by section 2 of the bill by replacing it with the following:

XIII. "Occupational disease" means an injury arising out of and in the course of the employee's employment and due to causes and conditions characteristic of and peculiar to the particular trade, occupation or employment. It shall not include other diseases or death therefrom unless they are the direct result of an accidental injury arising out of or in the course of employment, nor shall it include either a disease which existed at commencement of the employment or a disease to which the last injurious exposure to its hazards occurred prior to August 31, 1947.

Amend the introductory paragraph of RSA 281-A:11 as inserted by section 2 of the bill by replacing it with the following:

281-A:11 Self-insurance for Public Employers. Any public employer as defined in RSA 281-A:2, IX may, subject to RSA 281-A:5, III and the rules adopted to enforce that section, self-insure for workers' compensation coverage as follows:

Amend RSA 281-A:12, I(a) as inserted by section 2 of the bill by replacing it with the following:

(a) If the employee or the employee's dependents release the employer from all liability under any other law;

Amend the introductory paragraph of RSA 281-A:17, I as inserted by section 2 of the bill by replacing it with the following:

I. Notwithstanding the provisions of RSA 281-A:2, XI and XIII, 16 and 27, there shall exist a prima facie presumption that heart or lung disease in a regular, call, volunteer or retired member of a fire department is occupationally related. However:

Amend the introductory paragraph of RSA 281-A:17, II as inserted by section 2 of the bill by replacing it with the following:

II. Notwithstanding the provisions of RSA 281-A:2, XI and XIII, 16 and 27, there shall exist a prima facie presumption that cancer disease in a firefighter, whether a regular, call, volunteer, or retired member of a fire department, is occupationally related. In order to receive this occupational cancer disability benefit, the type of cancer involved must be a type which may be caused by exposure to heat, radiation, or a known or suspected carcinogen as defined by the International Agency for Research on Cancer. However:

Amend RSA 281-A:25, II as inserted by section 2 of the bill by replacing it with the following:

II. Upon receipt of such findings and after affording all parties an opportunity to be heard thereon, the commissioner may order that the services and treatment recommended or such other rehabilitation treatment or service the commissioner may deem necessary be provided at the expense of the employer or its insurance carrier.

Amend RSA 281-A:25, VI as inserted by section 2 of the bill by replacing it with the following:

VI. To carry out the provisions of RSA 281-A:24 and 25, there is hereby created within the workers' compensation division a staff of vocational and physical rehabilitation personnel whose positions shall be classified under RSA 21-I:42 et seq.

Amend RSA 281-A:28, III as inserted by section 2 of the bill by replacing it with the following:

III. Notwithstanding the provisions of RSA 281-A:26, 28, 29, and 32, the compensation of persons who regularly operate businesses or practice their trades, professions, or occupations as provided by RSA 281-A:2, VI shall be computed on the basis of 80 percent of their average weekly salary, but no more than 150 percent

of the state's average weekly wage. The state's insurance commissioner is hereby authorized to review and approve an appropriate classification for the foregoing class of persons and a reasonable rate, if the commissioner chooses to do so.

Amend the introductory paragraph of RSA 281-A:42, I as inserted by section 2 of the bill by replacing it with the following:

I. The commissioner shall assess a civil penalty of \$25 on any insurance carrier or self-insurer who fails, within 7 days after the waiting period provided by RSA 281-A:22:

Amend RSA 281-A:48, I as inserted by section 2 of the bill by replacing it with the following:

I. Any party at interest with regard to an injury occurring after July 1, 1965, may petition the commissioner to review a denial or an award of compensation made pursuant to RSA 281-A:40 by filing a petition with the commissioner not later than the fourth anniversary of the date of such denial or the last payment of compensation under such award or pursuant to RSA 281-A:40, as the case may be, upon the ground of a change in conditions, mistake as to the nature or extent of the injury or disability, fraud, undue influence, or coercion. This section shall not apply to requests for extensions of medical and hospital benefits, or other remedial care, which shall be governed solely by those sections of this chapter relating thereto.

*Conferees on the Part
of the Senate*

Sen. Delahunty, Dist. 22
Sen. Charbonneau, Dist. 14
Sen. Blaisdell, Dist. 10

*Conferees on the Part
of the House*

Rep. Warburton, Rock. 6
Rep. Nichols, Merr. 2
Rep. Turner, Belk. 11
Rep. Blanchette, Rock. 12

Senator Delahunty moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 401-FN

The committee of conference to which was referred House Bill 401-FN, An Act relative to video tape dispositions having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

*Conferees on the Part
of the Senate*

Sen. Podles, Dist. 16

Sen. White, Dist. 11

Sen. Nelson, Dist. 13

*Conferees on the Part
of the House*

Rep. Johnson, Merr. 5

Rep. Lozeau, Hills. 25

Rep. Dexter, Belk. 8

Rep. Cote, Hills. 25

Senator Podles moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 1144-FN

The committee of conference to which was referred House Bill 1144-FN, An Act relative to civil penalties for violations by public utilities, having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

*Conferees on the Part
of the Senate*

Sen. Podles, Dist. 16

Sen. White, Dist. 11

Sen. Nelson, Dist. 13

Rep. Schwartz, Ches. 13

*Conferees on the Part
of the House*

Rep. Fraser, Merr. 6

Rep. Christy, Graf. 11

Rep. Pantzer, Merr. 11

Senator Podles moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 1146-FN-A

The committee of conference to which was referred House Bill 1146-FN-A, An Act relative to abandoned property and making an appropriation to the state treasurer for purchase of a computer having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

*Conferees on the Part
of the Senate*

Sen. St. Jean, Dist. 20

Sen. Dupont, Dist. 6

Sen. Preston, Dist. 23

*Conferees on the Part
of the House*

Rep. Gross, Merr. 16

Rep. Weymouth, Graf. 2

Rep. Martling, Straf. 4

Rep. Arnesen, Graf. 7

Senator St. Jean moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 852-FN

The committee of conference to which was referred House Bill 852-FN, An Act relative to New Hampshire hospital personnel, having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 3 with the following:

3 New Sections; Claims Arising from the Operation and Administration of the New Hampshire Hospital. Amend RSA 541-B by inserting after section 20 the following new sections:

541-B:21 Claims Arising from the Clinical Operation and Administration of the New Hampshire Hospital.

I. Without otherwise limiting or defining the sovereign immunity of the state and its agencies, this chapter shall apply to all claims against any nonprofit entity, or any employee, trustee, or director of such nonprofit entity when acting in the scope of his elected or appointed capacity, providing clinical services in accordance with any contract entered into by the division of mental health and developmental services for the clinical operation and administration of the New Hampshire hospital pursuant to RSA 135-C:3 and RSA 135-C:4.

II. The limitations on awards provided in RSA 541-B:14 shall not be increased by the proceeds from any insurance policy procured by a nonprofit entity, or any employee of such entity, included under RSA 541-B:21, I.

III. This section shall apply only to claims arising out of incidents occurring on or after July 1, 1988, and prior to July 1, 1994.

541-B:22 Oversight Committee For Claims Arising from the Clinical Operation and Administration of the New Hampshire Hospital.

I. There is hereby established a legislative oversight committee to review claims arising under RSA 541-B:21 and 99-D:8. The committee members shall be as follows:

(a) Two members of the house of representatives, appointed by the speaker of the house.

(b) Two members of the senate, appointed by the senate president.

II. The committee shall report its findings to the general court every 2 years. The first report shall be made no later than one year from the effective date of this section.

III. The members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

Amend RSA 99-D:8, I as inserted by section 4 of the bill by replacing it with the following:

I. Without otherwise limiting or defining the sovereign immunity of the state and its agencies, this chapter shall apply to all claims against any nonprofit entity, or any employee, trustee, or director of such nonprofit entity when acting in the scope of his elected or appointed capacity and not in a wanton or reckless manner, arising out of clinical services provided in accordance with any contract entered into by the division of mental health and developmental services for the clinical operation and administration of the New Hampshire hospital pursuant to RSA 135-C:3 and RSA 135-C:4.

Amend RSA 99-D:8 as inserted by section 4 of the bill by inserting after paragraph II the following new paragraph:

III. All claims arising under this section shall be reviewed by the legislative oversight committee established under RSA 541-B:22.

*Conferees on the Part
of the Senate*

Sen. Freese, Dist. 4

Sen. Stephen, Dist. 18

Sen. Delahunty, Dist. 22

*Conferees on the Part
of the House*

Rep. Hawkins, Belk. 5

Rep. McCain, Rock. 11

Rep. Ford, Hills. 24

Rep. Rosencrantz, Rock. 15

Senator Freese moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 858-FN

The committee of conference to which was referred House Bill 858-FN , An Act relative to fetal alcohol syndrome, having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

*Conferees on the Part
of the Senate*

Sen. Krasker, Dist. 24

Sen. White, Dist. 11

Sen. Bond, Dist. 1

*Conferees on the Part
of the House*

Rep. Sochalski, Rock. 23

Rep. Bates, Straf. 1

Rep. Butler, Rock. 11

Rep. Foster, Ches. 17

Senator Krasker moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 862-FN

The committee of conference to which was referred House Bill 862-FN, An Act relative to solid waste disposal and source reduction having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 21-I:11, II(a) as inserted by section 18 of the bill by replacing it with the following:

(a) The director, division of plant and property management, with the assistance of all state agencies, shall cooperate with the generators and managers of waste materials which may be recycled and with the producers of products which use recycled materials to maximize the state's use of those materials and products. Not later than January 15 of each odd-numbered year, the director, division of plant and property management, shall submit a report to the governor, to the house environment and agriculture committee, and to the senate development, recreation and environment committee on the extent to which recycled products are purchased.

Amend section 22 of the bill by replacing it with the following:

22 Progress Report.

I. The bureau of solid waste, division of waste management, department of environmental services, shall report on the implementation of the provisions of this act on or before December 1, 1988, to the speaker of the house, the president of the senate, and the legislative budget assistant.

II. The New Hampshire Resource Recovery Association shall report on the implementation of its contract with the bureau of solid waste entered into pursuant to RSA 149-M:3, X-a, as inserted by section 4 of this act, not later than December 1, 1988, to the speaker of the house, the president of the senate, and the legislative budget assistant.

Conferees on the Part of the Senate

Sen. Hounsell, Dist. 2
Sen. McLane, Dist. 15
Sen. Krasker, Dist. 24

Conferees on the Part of the House

Rep. Holmes, Carr. 3
Rep. Millard, Merr. 4
Rep. Bowler, Belk. 2
Rep. Popov, Rock. 12

Senator Hounsell moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 873

The committee of conference to which was referred House Bill

873, An Act changing the title of "safety inspectors" to "highway enforcement officers" in the department of safety and providing for independent inspectors for carnival and amusement rides having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 375-A:18, II as inserted by section 18 of the bill by replacing it with the following:

II. The department of safety, division of motor vehicles, shall deduct from the fee received under paragraph I of this section the actual cost of issuing such registration certificates and number plates and shall forward the balance to the department to be used by it in the administration of this chapter.

Amend RSA 376:28 as inserted by section 26 of the bill by replacing it with the following:

376:28 Disposition of Revenues. All fees and fines collected pursuant to the provisions of this chapter and RSA 375 shall be made available to the department of safety, except that the cost of issuance of registration plates shall be paid to the division of motor vehicles.

Amend section 27 of the bill by replacing it with the following:

27 Transfer.

I. All of the functions, powers, duties, and responsibilities of the bureau of common carriers in the department of transportation are transferred to the department of safety. The transfer provided for in this section shall include all of the personnel, except as designated in paragraph III, books, papers, records, equipment, unexpended appropriations or other funds, as specified in paragraph IV, actions and other property or obligations of any kind of the bureau of common carriers in the department of transportation.

II. All rules pertaining to the bureau of common carriers shall remain in effect and shall be transferred to the department of safety.

III. The 7 transportation inspectors in PAU 04, 01, 04, 04, 01 in the department of transportation shall not be transferred to the de-

partment of safety. The 7 transportation inspector positions in the department of transportation shall be terminated on the effective date of this act.

IV. Sufficient funds in PAU 04, 01, 04, 01 and PAU 04, 01, 04, 04, 02 shall be transferred from the department of transportation to the appropriate PAU in the department of safety to fund 3 highway enforcement officer positions.

Amend section 29 of the bill by replacing it with the following:

29 Highway Enforcement Officers. The commissioner of the department of safety is authorized to hire 3 additional highway enforcement officers to perform the duties under RSA 21-P:4, IV.

Amend section 31 of the bill by replacing it with the following:

31 Effective Date. This act shall make effect January 1, 1989.

*Conferees on the Part
of the Senate*

Sen. Dupont, Dist. 6

Sen. Blaisdell, Dist. 10

Sen. Delahunty, Dist. 22

*Conferees on the Part
of the House*

Rep. Haynes, Rock. 9

Rep. Ward, Graf. 1

Rep. Phelps, Merr. 1

Rep. Casey, Straf. 9

Senator Dupont moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 881-FN

The committee of conference to which was referred House Bill 881-FN, An Act relative to weights and measures having considered the same, report the same with the following recommendations:

having considered the same, report the committee is unable to reach agreement.

*Conferees on the Part
of the Senate*

Sen. Freese, Dist. 4

Sen. Dupont, Dist. 6

Sen. Disnard, Dist. 8

*Conferees on the Part
of the House*

Rep. Millard, Merr. 4

Rep. Greene, Rock. 18

Rep. Bowler, Belk. 2

Rep. Popov, Rock. 12

Senator Freese moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 897

The committee of conference to which was referred House Bill 897, An Act relative to annual reports of county officers having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House each pass the bill as passed by the House.

Conferees on the Part of the Senate

Sen. Charbonneau, Dist. 14

Sen. Johnson, Dist. 17

Sen. Pressly, Dist. 12

Conferees on the Part of the House

Rep. King, Rock. 4

Rep. Perry, Ches. 10

Rep. West, Merr. 21

Rep. Gage, Hills. 6

Senator Charbonneau moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 912

The committee of conference to which was referred House Bill 912, An Act relative to rules in manufactured housing parks and warranties for presite built and prefabricated housing having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing section 3 with the following:

3 Failure to Respond to Request for Current Park Rules. Amend RSA 205-A:2 by inserting after paragraph XI the following new paragraph:

XII. Fail to respond to a written request of the consumer protection and antitrust bureau of the department of justice by not mailing or delivering a copy of the current park rules to the bureau within 7 days of receipt of the request. The bureau shall send the request by certified or registered mail. Failure to comply with this paragraph shall not constitute a defense to a possessory action.

Amend the bill by deleting section 4 and renumbering sections 5 and 6 to read as 4 and 5 respectively.

*Conferees on the Part
of the Senate*

Sen. St. Jean, Dist. 20

Sen. Podles, Dist. 16

Sen. Bartlett, Dist. 19

*Conferees on the Part
of the House*

Rep. Perry, Ches. 10

Rep. Adams, Graf. 13

Rep. Soucy, Hills. 39

Rep. Gage, Hills. 6

Senator St. Jean moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 932-FN-A

The committee of conference to which was referred House Bill 932-FN-A, An Act establishing a New Hampshire film and television bureau and making an appropriation therefor having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House each pass the bill as amended by the House.

*Conferees on the Part
of the Senate*

Sen. Nelson, Dist. 13

Sen. Hounsell, Dist. 2

Sen. Freese, Dist. 4

*Conferees on the Part
of the House*

Rep. Hawkins, Belk. 5

Rep. McCain, Rock. 11

Rep. King, Graf. 6

Rep. LaMott, Graf. 5

Senator Nelson moved to adopt the Committee of Conference report.

SENATOR WHITE: Senator Nelson, how much money is in the bill at this time?

SENATOR NELSON: There is exactly one dollar in the bill.

SENATOR WHITE: Do you think that it was wise to receive from the Senate position of insisting that we at least get paid back in the study for state services that are used in the conducting of bills by such profitable films as "On Golden Pond"?

SENATOR NELSON: That is only a half truth. The fact of the matter is that the other half of that statement is that they wanted to take a look at and to review every film and script approval.

SENATOR WHITE: You would agree that it probably would be good if the state was reimbursed for the expenses that they incurred and that part could have been left in the committee of conference.

SENATOR NELSON: I will not agree because that is not really what, in fact is happening. This is only a study bill to have the department look at it and, when in fact they set up the criteria, at that particular point the department could then put that in. I would strongly support anyone who should be paying the state back, should pay the state back.

Adopted.

HB 917, making technical changes for the department of revenue administration.

Senator Freese moved nonconcurrency and requested a new committee of conference.

Adopted.

The President appointed Senators Freese, Bartlett and Disnard.

COMMITTEE OF CONFERENCE REPORT ON HB 935

The committee of conference to which was referred House Bill 935, An Act relative to recording plats having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House each pass the bill as amended by the House.

*Conferees on the Part
of the Senate*

Sen. Pressly, Dist. 12

Sen. Heath, Dist. 3

Sen. Stephen, Dist. 18

*Conferees on the Part
of the House*

Rep. Grodin, Ches. 6

Rep. Brungot, Coos. 8

Rep. Baldizar, Hills. 22

Rep. Normandin, Sull. 8

Senator Pressly moved to adopt the Committee of Conference report.

Adopted.

948 allowing a village district to be established for the purposes of transportation of people in the village district.

Senator Hounsell moved to lay HB 948 on the table.

SENATOR HOUNSELL: I would like to, at this time, vote no against this so that we can set up another committee of conference. I think there is an awful lot of things that we have to get done. This remains a vehicle and also this remains a very important issue in the area of the state that it was generated from, that being Lincoln, New Hampshire, which is in my district. I would ask, however, at this time that we either pass over or defeat this motion so that we can set up a new committee of conference. This bill, I think, is important to keep alive at least until the last gavel.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 972

The committee of conference to which was referred House Bill 972, An Act relative to annulments of drug convictions and permit-

ting the director of motor vehicles to review revocation of licenses of habitual offenders for possible restoration under certain conditions having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

*Conferees on the Part
of the Senate*

Sen. White, Dist. 11

Sen. Podles, Dist. 16

Sen. Preston, Dist. 23

*Conferees on the Part
of the House*

Rep. Johnson, Merr. 5

Rep. Lozeau, Hills. 25

Rep. Dexter, Belk. 8

Rep. Hollingworth, Rock. 17

Senator Podles moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 978

The committee of conference to which was referred House Bill 978, An Act legalizing certain town meetings and zoning board of adjustment proceedings having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 4 with the following:

4 Town of Alexandria. All actions, votes, and proceedings of the Alexandria annual town meeting held on March 8, 1988, are hereby legalized, ratified, and confirmed.

5 Town of Bartlett. All actions, votes, and proceedings of the Bartlett annual town meeting held on March 8, 1988, are hereby legalized, ratified, and confirmed.

6 Town of Gilsum. All actions, votes, and proceedings of the Gilsum annual town meeting held on March 8, 1988, are hereby legalized, ratified, and confirmed.

7 Town of Hooksett. All actions, votes, and proceedings of the Hooksett annual town meeting held on March 12, 1988, are hereby legalized, ratified, and confirmed.

8 Town of Marlborough. All actions, votes, and proceedings of the Marlborough annual town meeting held on March 8, 1988, are hereby legalized, ratified, and confirmed.

9 Effective Date. This act shall take effect upon its passage.

*Conferees on the Part
of the Senate*

Sen. Pressly, Dist. 12

Sen. Charbonneau, Dist. 14

Sen. Heath, Dist. 3

*Conferees on the Part
of the House*

Rep. Golden, Belk. 7

Rep. Barnes, Rock. 6

Rep. King, Rock. 4

Rep. Normandin, Sull. 8

Senator Pressly moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 980-FN

The committee of conference to which was referred House Bill 980-FN, An Act relative to penalties for sewage treatment violations having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend RSA 149-I:6 as inserted by section 1 of the bill by replacing it with the following:

1 Penalty. RSA 149-I:6 is repealed and reenacted to read as follows:

149-I:6 By Laws and Ordinances.

I. In municipalities where the sewage is pumped or treated, the mayor and aldermen may adopt such ordinances and bylaws relating to the system, pumping station, treatment plant or other appurtenant structure as are required for proper maintenance and operation. Such ordinances and bylaws shall not be more stringent than applicable federal or state standards, regulations, or statutes.

II. Any person who violates any ordinance or bylaw adopted pursuant to paragraph I of this section shall be subject to a civil penalty not to exceed \$10,000 per day of such violation.

III. A municipality shall give notice of the alleged violation to the division of water supply and pollution control within 10 days of commencement of any action under this section.

*Conferees on the Part
of the Senate*

Sen. Hounsell, Dist. 2
Sen. St. Jean, Dist. 20
Sen. Freese, Dist. 4

*Conferees on the Part
of the House*

Rep. Conroy, Rock. 7
Rep. Young, Straf. 10
Rep. Spear, Straf. 2
Rep. McCann, Straf. 7

Senator Hounsell moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 1137-FN

The committee of conference to which was referred House Bill 1137-FN, An Act relative to the reports required by and the setting of tax rates for municipalities, counties, and school districts having considered the same, report the same with the following recommendations:

having considered the same, report the committee is unable to reach agreement.

*Conferees on the Part
of the Senate*

Sen. Preston, Dist. 23
Sen. Charbonneau, Dist. 14
Sen. Bartlett, Dist. 19

*Conferees on the Part
of the House*

Rep. Perry, Ches. 10
Rep. Golden, Belk. 7
Rep. Normandin, Sull. 8
Rep. Gage, Hills. 6

Senator Preston moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 1109-A

The committee of conference to which was referred House Bill 1109-A, An Act relative to the purchase of the Cheshire bridge in the

town of Charlestown and making an appropriation therefor having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

*Conferees on the Part
of the Senate*

Sen. Torr, Dist. 21

Sen. White, Dist. 11

Sen. Krasker, Dist. 24

*Conferees on the Part
of the House*

Rep. LaMott, Graf. 5

Rep. Miller, Ches. 1

Rep. Boucher, Merr. 9

Rep. Schwartz, Ches. 13

Senator Torr moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 1093-FN

The committee of conference to which was referred House Bill 1093-FN, An Act relative to reporting requirements of corporations having securities registered in this state having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

*Conferees on the Part
of the Senate*

Sen. Dupont, Dist. 6

Sen. Stephen, Dist. 18

Sen. Charbonneau, Dist. 14

*Conferees on the Part
of the House*

Rep. Fraser, Merr. 6

Rep. Pantzer, Merr. 11

Rep. Lindblade, Sull. 5

Rep. Buckley, Hills. 42

Senator Stephen moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 1081-FN

The committee of conference to which was referred House Bill 1081-FN, An Act naming a part of Route 111 in the town of Windham the Waterhouse Memorial Road having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by deleting section 2 and renumbering sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 to read as 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14, respectively.

*Conferees on the Part
of the Senate*

Sen. Preston, Dist. 23

Sen. Johnson, Dist. 17

Sen. Heath, Dist. 3

*Conferees on the Part
of the House*

Rep. Pearson, Belk. 5

Rep. Palumbo, Rock. 10

Rep. Skinner, Rock. 21

Rep. Jacobson, Hills. 26

Senator Preston moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 606-FN

The committee of conference to which was referred House Bill 606-FN, An Act relative to the lock-up of children, having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 10 with the following:

10 Expansion of the ADC Unit at Anna Philbrook Center. To accommodate the increase in placements made under RSA 170-G:10, II, the number of beds in the awaiting disposition of the court unit

shall be increased to 23. The division of mental health and developmental services shall permit the use of the Tobey building in order to effect this increase.

*Conferees on the Part
of the Senate*

Sen. Krasker, Dist. 24
Sen. Blaisdell, Dist. 10
Sen. Bond, Dist. 1

*Conferees on the Part
of the House*

Rep. Jones, Straf. 6
Rep. E. Wheeler, Hills. 10
Rep. Robinson, Hills. 12
Rep. Hager, Merr. 21

Senator Blaisdell moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 1162-FN-A

The committee of conference to which was referred House Bill 1162-FN-A, An Act relative to AIDS Education, prevention and control and making an appropriation therefor and relative to testing for the AIDS virus for insurance purposes, having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend paragraph II of section 1 of the bill by replacing it with the following:

II. Any materials, courses and programs distributed, developed, or provided by the division shall stress that abstinence or a monogamous relationship and avoiding drugs are the most effective ways to prevent contracting the human immunodeficiency virus.

III. The general court declares that the policy of this state shall be to protect its citizens to the fullest extent possible in a manner consistent with the rights of the individual. The general court intends to address these problems in a manner consistent with its state policy by implementing the following procedures:

(a) To identify and provide at the earliest possible time the resources needed to minimize and control the spread of the human immunodeficiency virus; and

(b) To coordinate the educational and detection efforts of the state through the division of public health services, department of health and human services and the department of education.

Amend RSA 141-F:1 as inserted by section 2 of the bill by replacing it with the following:

141-F:1 Statement of Purpose. It is the purpose of this chapter to designate the division of public health services, department of health and human services, as the state agency responsible for preparing information on the transmission and prevention of the human immunodeficiency virus. It is also the purpose of this chapter to require the division of public health services to provide testing for the human immunodeficiency virus, to assure the quality of similar testing by other laboratories in the state, and to carry out epidemiological analysis and follow-up. Finally, it is the purpose of this chapter to protect individuals from unauthorized disclosure of human immunodeficiency virus test results.

Amend RSA 141-F:3 as inserted by section 2 of the bill by replacing it with the following:

141-F:3 Powers and Duties of the Division. The division shall:

I. Provide information and guidance to the department of education for their development of courses and programs relative to the human immunodeficiency virus which meet the requirements of RSA 186:11, IX and XXVII.

II. Develop training courses and materials on the human immunodeficiency virus and related issues, for police, fire, and emergency medical services personnel and provide assistance on the development and implementation of such courses and materials to the relevant state and local agencies.

III. Distribute informational materials on the human immunodeficiency virus to health care providers, health care institutions, local health and social service agencies, local units of government, and, upon request, to other public and private agencies and organizations.

IV. Provide information to persons at high risk of acquiring the human immunodeficiency virus.

V. Provide assistance to government agencies, school districts, health care institutions, businesses, and industries to establish policies and practices for coping with the human immunodeficiency virus.

VI. Disseminate information to the general public, using print and broadcast media, on the human immunodeficiency virus, its causes and effects, and on methods of prevention and control.

VII. Conduct training sessions and workshops, upon request, for educators, physicians, and the staff and volunteers of hospitals and other health care agencies, licensed under RSA 151, on the human immunodeficiency virus, methods of prevention and control, methods for pre-test and post-test counseling for infected persons and their families, and management of medical care and treatment of infected persons.

VIII. Within the limits of appropriated funds, augment community efforts by providing, directly or by contract, with local health or social service agencies or with any other relevant agency or organization, services relating to the human immunodeficiency virus.

IX. Provide laboratory testing services in accordance with RSA 141-F:6 to detect the presence of the human immunodeficiency virus in samples submitted by health care providers.

X. Certify facilities in accordance with RSA 141-F:6 who offer or otherwise make available laboratory testing services to detect the presence of the human immunodeficiency virus.

XI. Conduct follow-up investigations in accordance with RSA 141-F:9.

XII. Apply for, receive, and expend funds made available to the state by the federal government or other sources and use such funds to carry out the provisions of this chapter.

XIII. Provide an informational brochure relative to the human immunodeficiency virus to persons applying for a marriage license and make such brochure available to town and city clerks for distribution under RSA 457:23, II.

Amend RSA 457:23 as inserted by section 6 of the bill by replacing it with the following:

457:23 Requirements.

I. No marriage license shall be issued by any town or city clerk until the applicants have each provided for inspection the following documents:

[I.](a) Proof of age;

[II.](b) A copy of the final divorce decree, if either or both parties are divorced; and

[III.](c) A copy of the death record of spouse, if either or both parties are widowed.

II. In addition to the requirements under paragraph I, no marriage license shall be issued unless it includes an affidavit on the

back which the bride and groom shall sign affirming that they have received and discussed the brochure prepared by the division of public health services, department of health and human services, under RSA 141-F:3, XIII. The affidavit required by this section shall state:

AFFIDAVIT

We acknowledge that we have received and discussed the brochure titled

Signature of Bride Date

Signature of Groom Date

Amend the bill by replacing all after section 6 with the following:

7 Duty Added. Amend RSA 186:11 by inserting after paragraph IX the following new paragraph:

IX-a. AIDS Educational Material.

(a) Develop and provide human immunodeficiency virus-related educational material to:

(1) all school boards pursuant to RSA 189:10 and

(2) private and public elementary, secondary, and post-secondary educational and vocational training institutions for the delivery of appropriate courses and programs.

(b) Evaluate AIDS information programs and course counseling activities, on a continuing basis, at private and public secondary, and post-secondary educational and vocational educational institutions.

8 Positions Established. To carry out the purposes of this act, there are hereby established within the division of public health services, department of health and human services, and the department of education, the following permanent, full-time classified positions:

I. Within the division of public health services, department of health and human services, the following positions are established:

(a) A public health program chief;

(b) One sexually transmitted disease control investigator;

(c) A laboratory scientist III;

(d) A laboratory helper; and

(e) A statistical assistant.

II. Within the department of education the following positions are established:

(a) Two program supervisors; and

(b) A secretary typist II.

9 Appropriation. The sum of \$310,260 for the biennium ending June 30, 1989, is hereby appropriated to the division of public health services, department of health and human services, and the sum of \$132,156 for the biennium ending June 30, 1989, is hereby appropriated to the department of education, for the purposes of this act. These appropriations shall be nonlapsing. These appropriations shall be in addition to any other appropriations made to the division of public health services, department of health and human services, and to the department of education. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

10 New Paragraph; Unfair Insurance Trade Practice. Amend RSA 417:4 by inserting after paragraph XVIII the following new paragraph:

XIX. Human Immunodeficiency Virus. No person engaged in the business of insurance in this state shall test for the presence of an antibody or antigen to a human immunodeficiency virus other than in accordance with the provisions of this paragraph. Such persons shall not be subject to any provision of RSA 141-F.

(a) No person may test any individual in connection with an application for insurance for the presence of an antibody or antigen to a human immunodeficiency virus unless such individual gives written consent on a form designed by the director, division of public health services, department of health and human services, with consultation and approval by the commissioner of insurance. The form shall contain information about the medical interpretations of positive and negative test findings, disclosure of test results, and the purpose for which the test results may be used.

(b) If the laboratory analysis is performed within this state, only laboratories certified by the division of public health services, department of health and human services, shall be used to test for the presence of an antibody or antigen to a human immunodeficiency virus. If the laboratory analysis is conducted without this state, only laboratories licensed by the United States Department of Health and Human Services under the Clinical Laboratory Improvement Act of 1967, as amended, shall be used to perform such tests.

(c) In the event of a serologic positive test result, a person who tests for the presence of an antibody or antigen to a human immunodeficiency virus shall disclose the test results, but only to:

(1) the individual tested;

(2) such other person or entity as the individual tested may authorize by written consent to receive the test results, which consent shall be clearly identifiable as part of the form described in subparagraph (a) of this paragraph.

(d) Notwithstanding the provisions of subparagraph (c), if the test results are positive or indeterminate and the individual tested has not given written consent authorizing a physician to receive the test results, such individual shall be urged, at the time the individual is informed of the positive or indeterminate test results, to contact the director, division of public health services, department of health and human services, for appropriate counseling.

(e) A person who requires the test for the presence of an antibody or antigen to a human immunodeficiency virus shall maintain all test results and records pertaining to test results as confidential and protected against inadvertent or unwarranted intrusion. Such test results obtained by subpoena or any other method of discovery shall not be released or made public outside the proceedings.

(f) The commissioner of insurance shall adopt rules, under RSA 541-A, relative to:

(1) Recordkeeping designed to maintain the confidentiality of an individual tested under this paragraph.

(2) Who may have access to such records and the conditions of such access.

11 Report Required. The commissioner of insurance shall make a report no later than January 1, 1991, to the general court relative to the number of persons tested pursuant to RSA 417:4, XIX and the number of persons denied insurance as a result of such test results.

12 Legislative Intent. Notwithstanding RSA 417:4, XIX, the legislature expresses neither approval nor disapproval of the current practice of insurance company testing for the presence of an antibody or antigen to a human immunodeficiency virus.

13 Implementation. The division of public health services shall not implement RSA 141-F:6 as inserted by section 2 of this act until 60 days after the division has adopted rules pursuant to RSA 541-A and RSA 141-F:4.

14 Effective Date.

I. Sections 3, 4, 5, 6, and 10 of this act shall take effect 120 days after its passage.

II. The remainder of this act shall take effect upon its passage.

*Conferees on the Part
of the Senate*

Sen. Krasker, Dist. 24

Sen. White, Dist. 11

Sen. St. Jean, Dist. 20

*Conferees on the Part
of the House*

Rep. Sochalski, Rock. 23

Rep. Bates, Straf. 1

Rep. Palumbo, Rock. 10

Rep. Chambers, Graf. 12

Senator Krasker moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 1200

The committee of conference to which was referred House Bill 1200, An Act relative to apportionment of damages having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 507:7-e, I(b) as inserted by section 1 of the bill by replacing it with the following:

(b) Enter judgment against each party liable on the basis of the rules of joint and several liability, except that if any party shall be less than 50 percent at fault, then that party's liability shall be several and not joint and he shall be liable only for the damages attributable to him.

Conferees on the Part of the Senate

Sen. Freese, Dist. 4
Sen. Blaisdell, Dist. 10
Sen. Roberge, Dist. 9

Conferees on the Part of the House

Rep. Sytek, Rock. 20
Rep. Gage, Rock. 13
Rep. Fraser, Merr. 6
Rep. Tilton, Rock. 20

Senator Freese moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 1150-FN

The committee of conference to which was referred House Bill 1150-FN, An Act permitting the attorney general to hire part-time attorneys general having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as passed by the House, and pass the bill as so amended:

Amend RSA 7:16-a as inserted by section 1 of the bill by inserting after paragraph II the following new paragraph:

III. For the duration of the temporary part-time positions designated under paragraph II of this section, the funds that would have been paid for benefits for the designated full-time positions, with the exception of social security benefits, shall be paid into the general fund of this state. In no event shall any of these temporary part-time positions be for more than 29 hours per week.

*Conferees on the Part
of the Senate*

Sen. St. Jean, Dist. 20

Sen. Bartlett, Dist. 19

Sen. Podles, Dist. 16

*Conferees on the Part
of the House*

Rep. McCain, Rock. 11

Rep. Torr, Straf. 6

Rep. Sytek, Rock. 20

Rep. Rosencrantz, Rock. 15

Senator Podles moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 962-FN-A

The committee of conference to which was referred House Bill 962-FN-A, An Act relative to the study and design of a ski lodge at Mount Sunapee and making an appropriation therefor having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend section 6 of the bill by replacing it with the following:

6 Appropriation. The sum of \$1,200,000 is hereby appropriated to the department of resources and economic development for the biennium ending June 30, 1989, and this shall be a non-lapsing appropriation.

tion. The moneys appropriated shall be expended for trail improvements, snowmaking equipment and engineering costs at the Mount Sunapee state park.

7 Bonds. To provide funds for the appropriation in section 6 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$1,200,000 and for said purposes may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provision of RSA 6-A.

8 Effective Date. This act shall take effect upon its passage.

*Conferees on the Part
of the Senate*

Sen. Torr, Dist. 21

Sen. Chandler, Dist. 7

Sen. Nelson, Dist. 13

*Conferees on the Part
of the House*

Rep. Pearson, Belk. 5

Rep. Peyron, Sull. 2

Rep. Phelps, Merr. 1

Rep. Kilbride, Coos 8

Senator Torr moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 832

The committee of conference to which was referred House Bill 832, An Act establishing a 10-year bridge construction and reconstruction plan having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by deleting sections 6 and 7 and renumbering section 8 to read as follows:

6

Amend renumbered section 6 by replacing it with the following:

6 Effective Date. This act shall take effect upon its passage.

*Conferees on the Part
of the Senate*

Sen. Torr, Dist. 21

Sen. Hounsell, Dist. 2

Sen. Preston, Dist. 23

*Conferees on the Part
of the House*

Rep. Pearson, Belk. 5

Rep. LaMott, Graf. 5

Rep. Palumbo, Rock. 10

Rep. Kincaid, Straf. 7

Senator Torr moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 1159-FN

The committee of conference to which was referred House Bill 1159-FN, An Act relative to the Southeast Regional Disposal District having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 9 with the following:

9 Effective Date. This act shall take effect September 1, 1988.

*Conferees on the Part
of the Senate*

Sen. Stephen, Dist. 18

Sen. Pressly, Dist. 12

Sen. Charbonneau, Dist. 14

*Conferees on the Part
of the House*

Rep. Greene, Rock 18

Rep. Bowler, Belk. 2

Rep. McCann, Hills. 31

Rep. Popov, Rock. 12

Senator Charbonneau moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 1171

The committee of conference to which was referred House Bill 1171, An Act relative to boating restrictions on White Pond and Duncan Lake in the town of Ossippee and prohibiting ski craft on Dublin Lake in the town of Dublin having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

*Conferees on the Part
of the Senate*

Sen. Hounsell, Dist. 2

Sen. Heath, Dist. 3

Sen. Krasker, Dist. 24

*Conferees on the Part
of the House*

Rep. Gordon, Ches. 5

Rep. Malcolm, Rock. 17

Rep. Hoar, Rock. 6

Rep. Turgeon, Hills. 46

Senator Hounsell moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 237-FN

The committee of conference to which was referred House Bill 237-FN, An Act limiting the civil liability of volunteers working on behalf of nonprofit organizations; establishing a special insurance compensation fund and a process to compensate persons with claims against volunteers having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Volunteers; Nonprofit Organizations; Liability Limited. Amend RSA 508 by inserting after section 16 the following new section:

508:17 Volunteers; Nonprofit Organizations; Liability Limited.

I. Any volunteer of a nonprofit organization or government entity shall be immune from civil liability in any action brought on the basis of any act or omission resulting in damage or injury to any person if:

(a) The volunteer had prior written approval from the organization to act on behalf of the organization; and

(b) The volunteer was acting in good faith and within the scope of his official functions and duties with the organization; and

(c) The damage or injury was not caused by willful, wanton, or grossly negligent misconduct by the volunteer.

II. Liability of a nonprofit organization for bodily injury, personal injury or property damage sustained by any one person in actions brought against the organization alleging negligence on the part of an organization volunteer is limited to \$250,000. Such limit applies in the aggregate to any and all actions to recover for bodily injury, personal injury or property damage arising out of bodily injury, personal injury or property damage sustained by one person in a single incident or occurrence. Liability of a nonprofit organization for bodily injury, personal injury or property damage sustained by any number of persons in a single incident or occurrence involving negligence on the part of an organization volunteer is limited to \$1,000,000.

III. Nothing in this section shall be construed to affect any civil action brought by any nonprofit organization against any volunteer of such organization.

IV. Volunteer activity related to transportation or to care of the organization's premises shall be excepted from the provisions of paragraph I of this section.

V. In this section:

(a) "Damage or injury" includes physical, nonphysical, economic and noneconomic damage.

(b) "Nonprofit organization" shall include, but not be limited, to a not for profit organization, corporation, community chest, fund or foundation organized and operated exclusively for religious, cultural, charitable, scientific, recreational, literary, agricultural, or educational purposes, or to foster amateur competition in a sport formally recognized by the National Collegiate Athletic Association, and an organization exempt from taxation under section 501(c) of the Internal Revenue Code of 1986 organized or incorporated in this state or having a principal place of business in this state.

(c) "Volunteer" means an individual performing services for a nonprofit organization or government entity who does not receive compensation, other than reimbursement for expenses actually incurred for such services. In the case of volunteer athletic coaches or sports officials, such volunteers shall possess proper certification or validation of competence in the rules, procedures, practices, and programs of the athletic activity.

2 Applicability. This act shall apply to all causes of action arising on or after July 1, 1988.

3 Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

4 Effective Date. This act shall take effect July 1, 1988.

*Conferees on the Part
of the Senate*

Sen. Freese, Dist. 4
Sen. Blaisdell, Dist. 10
Sen. Roberge, Dist. 9

*Conferees on the Part
of the House*

Rep. Sytek, Rock. 20
Rep. Gage, Rock. 13
Rep. Fraser, Merr. 6
Rep. Tilton, Rock. 20

Senator Freese moved to adopt the Committee of Conference report.

Adopted.

Recess

Out of Recess

Senator Blaisdell in the Chair.

COMMITTEE OF CONFERENCE REPORT ON HB 1129

The committee of conference to which was referred House Bill 1129, An Act making supplemental operating budget appropriations, amending the operating budget, and making certain other appropriations having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 Supplemental Appropriation; Department of Administrative Services; Indigent Defenders. Amend 1987, 400:1.01,04,01,02,04 to read as follows:

01 General government

04 Dept of administrative services

01 Office of the commissioner

02 Budget office

04 Indigent defenders

	<i>FY 1988</i>	<i>FY 1989</i>
50 Other personal services	30,000	30,000
60 Benefits	2,145	2,253
90 Assigned counsel	[450,000]	[316,000]
	950,000	450,000
91 Public defender program	3,000,000	[3,300,000]
		3,912,242
92 Contract counsel	750,000	[374,927]
		750,000
93 Pilot collection program	43,500	179,588
Total	[4,232,145]	[4,023,180]
	4,775,645	5,324,083
Estimated source of funds for indigent defenders		
General fund	[4,232,145]	[4,023,180]
	4,775,645	5,324,083
Total	[4,232,145]	[4,023,180]
	4,775,645	5,324,083

It is the intent of the general court that RSA 604-A:9 be implemented to the fullest extent possible and that all fees and costs provided on behalf of an indigent shall be recovered and continually appropriated to the indigent defense program.

The department of administrative services is hereby authorized to enter into percentage of collection contracts to recover fees and costs provided on behalf of an indigent.

2 Supplemental Appropriation; Department of Corrections. Amend 1987, 400:1.02, 16, 03, 01, classes 20, 50, and 94 to read as follows:

	<i>FY 1988</i>	<i>FY 1989</i>
20 Current expenses	[45,795]	65,795
	54,795	
50 Other personal services	[320,000]	[320,000]
	491,000	491,000

94 Other expenditures	[125,000]	125,000
	152,000	

3 Totals and Funding Sources Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.02, 16, 03, 01 to read as follows:

	<i>FY 1988</i>	<i>FY 1989</i>
Total	[7,073,489]	[7,539,915]
	7,280,489	7,710,915
Estimated source of funds for Bureau of security		
09 Industries reimbursement	36,000	36,000
General fund	[7,037,489]	[7,503,915]
	7,244,489	7,674,915
Total	[7,073,489]	[7,539,915]
	7,244,489	7,710,915

4 Supplemental Appropriation; Department of Corrections. Amend 1987, 400:1.02, 16, 03, 02, 01, classes 20 and 90 to read as follows:

	<i>FY 1988</i>	<i>FY 1989</i>
20 Current expenses	[1]	[1]
	44,001	44,001
90 Stockroom supplies	[70,815]	[86,352]
	93,815	93,815

5 Totals and Funding Sources Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.02, 16, 03, 02, 01 to read as follows:

Total	[288,415]	[309,245]
	355,415	360,708
Estimated source of funds for administration		
General fund	[288,415]	[309,245]
	355,415	360,708
Total	[288,415]	[309,245]
	355,415	360,708

6 Supplemental Appropriation; Department of Corrections. Amend 1987, 400:1.02, 16, 03, 02, 02 class 21 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
21 Food institutions	[846,360]
	936,360

7 Totals and Funding Source Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.02, 16, 03, 02, 02 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
Total	[1,181,882] 1,271,882
Estimated source of funds for Kitchen	
General fund	[1,181,882] 1,271,882
Total	[1,181,882] 1,271,882

8 Supplemental Appropriation; Department of Corrections. Amend 1987, 400:1.02, 16, 03, 02, 05, class 90 to read as follows:

	<i>FY 1988</i>	<i>FY 1989</i>
90 Clothing	[105,600] 121,100	[118,800] 121,100

9 Totals and Funding Sources Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.02, 16, 03, 02, 05 to read as follows:

	<i>FY 1988</i>	<i>FY 1989</i>
Total	[234,256] 249,756 249,756	[254,225] 256,525 256,525
Total	[234,256] 249,756	[254,225] 256,525

10 Supplemental Appropriation; Department of Corrections. Amend 1987, 400:1.02, 16, 03, 02, 10 class 93 to read as follows:

	<i>FY 1988</i>	<i>FY 1989</i>
93 Outside Medical Services	[376,000] 476,000	[448,000] 576,000

11 Totals and Funding Source Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.02, 16, 03, 02, 10 to read as follows:

	<i>FY 1988</i>	<i>FY 1989</i>
Total	[890,693] 990,693	[1,023,181] 1,151,181

Estimated source of funds for medical and dental

General fund	[890,693]	[1,023,181]
	990,693	1,151,181
Total	[890,693]	[1,023,181]
	990,693	1,151,181

12 Supplemental Appropriation; Department of Corrections. Amend 1987, 400:1.02, 16, 04, 01 class 20 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
20 Current expenses	[169,378]
	189,878

13 Totals and Funding Source Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.02, 16, 04, 01 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
Total	[2,405,013]
	2,447,513
Estimated source of funds for bureau of district offices	
General Fund	[2,405,013]
	2,447,513
Total	[2,405,013]
	2,447,513

14 Reduced Appropriation; Department of Environmental Services. Amend 1987, 400.1.03, 04, 02, 01, 01 class 92 for fiscal year 1988 to read as follows:

	<i>FY 88</i>
92 Clearing and dredging D	[15,000]
	11,700

15 Totals and Funding Sources Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.03, 04, 02, 01, 01 for fiscal year 1988 to read as follows:

	<i>FY 88</i>
Total	[683,365]
	680,065

Estimated source of funds for Water resources board	
02 Transfer from DOT	26,486
09 Agency income	5,304
General fund	[651,575]
	648,275
Total	[683,365]
	680,065

16 Supplemental Appropriation; Department of Environmental Services. Amend 1987, 400:1.03, 04, 01 for fiscal year 1988 to read as follows:

FY 88

03 Resource protection and development	
04 Dept of environmental services	
01 Office of the commissioner	
10 Personal services - permanent	90,467
11 Commissioners salary	57,376
12 Assistant commissioner *	48,732
20 Current expenses	[12,500]
	29,200
30 Equipment	[44,996]
	66,996
60 Benefits	41,281
70 In-state travel	900
80 Out-of-state travel	[3,000]
	5,000
90 State geology program	71,400

* A portion of these funds may be utilized to reimburse the U.S. Environmental Protection Agency in the event that an intergovernmental personnel assignment agreement is negotiated to staff this position pursuant to RSA 98-B:6, V and RSA 98-D:7. These funds cannot be transferred or expended for any other purpose.

Total	[370,652]
	411,352

Estimated source of funds for Office of the commissioner	
General fund	[370,652]
	411,352
Total	[370,652]
	411,352

17 Supplemental Appropriations; Department of Environmental Services. Amend 1987, 400:1.03, 04, 03, 01, 01 for fiscal year 1988 to read as follows:

03 Resource protection and development
 04 Dept of environmental services
 03 Division of water pollution control
 01 Water pollution program
 01 Pollution control program

	<i>FY 88</i>
10 Personal services - permanent	1,263,069
11 Salary of director	54,450
20 Current expenses *	84,350
24 Maint other than bldg & ground	2,300
28 Transfers to general services	[93,186]
	83,186
30 Equipment	48,100
40 Indirect costs E	38,475
41 Audit fund set aside D	700
50 Other personal services	38,000
60 Benefits	279,396
70 In-state travel	[30,000]
	47,000
80 Out-of-state travel	3,000
90 State aid grants	[12,435,089]
	12,185,089
93 Contractual	46,000

* Included in this appropriation is the sum of approximately \$1,100 each year to cover the cost of marine insurance.

Total	[14,370,115]
	14,173,115

Estimated source of funds for pollution control program	
OO water pollution	367,272
General fund	[14,002,843]
	13,805,843
Total	[14,370,115]
	14,173,115

18 Supplemental Appropriation; Department of Environmental Services. Amend 1987, 400:1.03, 04, 03, 07 class 70 for fiscal year 1988 to read as follows:

	<i>FY 88</i>
70 In-state travel	[40,000]
	62,500

19 Totals and Funding Sources Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1, 03, 04, 03, 07 for fiscal year 1988 to read as follows:

	<i>FY 88</i>
Total	[1,224,447]
	1,246,947
Estimated source of funds for Subsurface waste disposal	
General fund	[1,224,447]
	1,246,947
Total	[1,224,447]
	1,246,947

20 Totals and Funding Sources Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.04, 01, 04, 04, 03 to read as follows:

	<i>FY 88</i>	<i>FY 89</i>
Total	80,878	80,189
Estimated source of funds for Federal rail safety		
OO federal funds	[40,439]	[40,095]
	11,587	-0-
General fund	[40,439]	[40,094]
	69,291	80,189
Total	80,878	80,189

21 Supplemental Appropriation; Department of Transportation. Amend 1987, 400:1.04, 01, 06 to read as follows:

	<i>FY 88</i>	<i>FY 89</i>
04 Transportation		
01 Department of transportation		
06 Debt service		

44 Debt service		
(other agencies)	[6,517,370]	[5,767,300]
	9,110,848	7,956,420
Total	[6,517,370]	[5,767,300]
	9,110,848	7,956,420
Estimated source of funds for Debt service		
Highway funds	[6,517,370]	[5,767,300]
	9,110,848	7,956,420
Total	[6,517,370]	[5,767,300]
	9,110,848	7,956,420

22 Supplemental Appropriation; Port Authority. Amend 1987, 400:1.04, 05, 01 class 80 to read as follows:

80 Out-of-state travel	[3,976]	[4,011]
	5,476	6,011

23 Totals and Funding Sources Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.04, 05, 01 to read as follows:

	<i>FY 88</i>	<i>FY 89</i>
Total	[148,635]	[129,608]
	150,135	131,608
Estimated source of funds for Administration		
General fund	[148,635]	[129,608]
	150,135	131,608
Total	[148,635]	[129,608]
	150,135	31,608

24 Notation Changed. Amend 1987, 400:1.02, 15, 01, 01, 01 class 48 to read as follows:

	<i>FY 88</i>	<i>FY 89</i>
48 Cont. maint bldgs & grounds	[G] 100,500	
	F	

25 Supplemental Appropriation; Department of Health and Human Services; Division of Public Health Services. Amend 1987, 400:1.05, 02, 02, 03, 05 to read as follows:

- 05 Health and social services
- 02 Department of health and human services
- 02 Division of public health services
- 03 Disease prevention and control
- 05 Vaccination program

	<i>FY 88</i>	<i>FY 89</i>
10 Personal services		
- permanent	90,068	94,176
20 Current expenses	53,378	51,675
28 Transfers to general services	7,816	7,969
40 Indirect costs E	24,356	24,356
41 Audit fund set aside D	204	200
50 Other personal services	8,900	8,900
60 Benefits	19,550	21,387
70 In-state travel	2,850	2,850
80 Out-of-state travel	2,000	2,000
90 Vaccines *	300,000	500,000
Total	[209,122]	[213,513]
	509,122	713,513
Estimated source of funds for vaccination program		
00 Federal funds	97,617	97,612
General fund	[111,505]	[115,901]
	411,505	615,901
Total	[209,122]	[213,513]
	509,122	713,513

* It is the intent of the state government that vaccines purchased with these funds shall be provided to children without cost.

26 Supplemental Appropriation; Department of Health and Human Services; Division for Children and Youth Services. Amend 1987, 400:1.05, 02, 03, 02, 07 for fiscal year 1988 to read as follows:

05 Health and social services

02 Department of health and human services

03 Division for children and youth services

02 Bureau of children

07 DCYS - settlement

	<i>FY 88</i>
90 DCYS settlement *	[16,419,437]
	21,510,211
Total	[16,419,437]
	21,510,211

Estimated source of funds for DCYS - settlement

00 Federal funds	[600,000]
------------------	-----------

05 Private or local funds	[3,954,858]
	5,322,783
General fund	[11,864,579]
	16,187,428
Total	[16,419,437]
	21,510,211

* The Division for Children and Youth Services shall report quarterly the level of expenditures for settlement costs to date to the joint fiscal committee, senate president, and the speaker of the house. In particular, the division shall specify whether the level of expenditures continues to show the 6.5% decrease in such expenditures shown in the first 3 quarters of fiscal year 1988.

27 Reduced Appropriation; Department of Health and Human Services. Amend 1987, 400:1.05, 02, 04, 05, 01 to read as follows:

05 Health and social services

02 Department of health and human services

04 Division of human services

05 Grants

01 Financial grants

	<i>FY 88</i>	<i>FY 89</i>
41 Audit fund set aside	[22,295]	[22,614]
	21,345	20,759
90 AFDC	[21,759,854]	[22,613,740]
	19,859,854	20,713,740
Total	[21,782,149]	[22,636,354]
	19,881,199	20,734,499
Estimated source of funds for Financial grants		
00 Federal funds	[11,169,868]	[11,329,484]
	10,218,918	10,377,629
09 Agency income	1,051,848	1,099,521
General fund	[9,560,433]	[10,207,349]
	8,610,433	9,257,349
Total	[21,782,149]	[22,636,354]
	19,881,199	20,734,499

28 Reduced Appropriation; Department of Health and Human Services. Amend 1987, 400:1.05, 02, 04, 05, 02 to read as follows:

05 Health and social services

02 Department of health and human services

04 Division of human services

05 Grants

02 OAA APTD grants

	<i>FY 88</i>	<i>FY 89</i>
90 OAA grants	984,197	989,218
91 APTD grants	[5,610,600]	[6,105,600]
	4,530,600	5,025,600
Total	[6,594,797]	[7,094,818]
	5,514,797	6,014,818
Estimated source of funds for OAA APTD grants		
05 Private and local funds	[3,297,398]	[3,547,409]
	2,757,398	3,007,409
09 Agency income	20,000	20,000
General fund	[3,277,399]	[3,527,409]
	2,737,399	2,987,409
Total	[6,594,797]	[7,094,818]
	5,514,797	6,014,818

29 Supplemental Appropriation; Department of Health and Human Services; Division of Human Services. Amend 1987, 400:1.05, 02, 04, 05, 05 to read as follows:

05 Health and social services

02 Department of health and human services

04 Division of human services

05 Grants

05 Medical grants

	<i>FY 88</i>	<i>FY 89</i>
41 Audit fund set aside	[39,008]	[40,199]
	40,475	43,217
90 Provider payment	[38,071,497]	[40,198,716]
	41,005,974	43,131,642
Total	[38,110,505]	[40,238,915]
	41,046,449	43,174,859
Estimated source of funds for Medical grants		
00 Federal funds	[19,543,036]	[20,139,557]
	21,011,741	21,608,262
05 Private and local funds	[2,613,240]	[2,643,600]
	2,543,638	2,573,998
09 Agency income	153,000	156,000
General fund	[15,801,229]	[17,299,758]
	17,338,070	18,836,599
Total	[38,110,505]	[40,238,915]
	41,046,449	43,174,859

30 Supplemental Appropriation; Department of Health and Human Services. Amend 1987, 400:1.05, 02, 04, 05, 06 to read as follows:

05 Health and social services

02 Department of health and human services

04 Division of human services

05 Grants

06 Nursing home grants

	<i>FY 88</i>	<i>FY 89</i>
41 Audit funds set aside D	[70,759]	[72,778]
	73,606	76,875
90 Nursing Homes	[69,059,876]	[71,030,224]
	74,753,511	76,722,609
Total	[69,130,635]	[71,103,002]
	74,827,117	76,799,484
Estimated source of funds for nursing home grants		
00 Federal funds	[35,450,133]	[35,587,889]
	38,299,798	38,437,554
05 Private and local funds	[20,713,508]	[21,841,794]
	22,464,300	23,592,586
General fund	[12,966,994]	[13,673,319]
	14,063,019	14,769,344
Total	[69,130,635]	[71,103,002]
	74,827,117	76,799,484

31 Reduced Appropriation; Postsecondary Education Commission.
Amend 1987, 400:1.06, 01, 01 classes 20, 30, and 96 for fiscal year
1988 to read as follows:

	<i>FY 1988</i>
20 Current Expenses	[21,326]
	29,966
30 Equipment	[5,000]
	6,363
96 Spec'l Student Grant-Veterinary	[233,500]
	213,503

32 Totals and Funding Sources Adjusted. Amend the totals and
estimated sources of funds for 1987, 400:1.06, 01, 01 for fiscal year
1988 to read as follows:

	<i>FY 88</i>
Total	[2,468,738]
	2,458,744
Estimated Source of Funds for Administration & Financial Aid	
00 NH Incentive Program	275,000

09 Nursing schlrshp repayment	7,600
General Fund	[2,186,138]
	2,176,144
Total	[2,468,738]
	2,458,744

33 Supplemental Appropriation; Department of Education; Building Aid. Amend 1987, 400:1.06, 03, 02, 04, 02 for fiscal year 1988 to read as follows:

06 Education

03 Department of Education

02 Office of Administration

04 Financial Aid to Districts - State

02 Building Aid

	<i>FY 1988</i>
90 Building Aid	[7,928,360]
	8,184,360
Total	[7,928,360]
	8,184,360

Estimated Source of Funds for Building Aid

General Fund	[7,928,360]
	8,184,360
Total	[7,928,360]
	8,184,360

34 Supplemental Appropriation; Department of Education. Amend 1987, 400:1.06, 03, 03, 03, 01 for fiscal year 1988 class 92 to read as follows:

	<i>FY 1988</i>
92 Catastrophic Cost	[5,529,782]
	6,297,574

35 Totals and Funding Sources Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.06, 03, 03, 03, 01 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
Total	[6,266,374]
	7,034,166
Estimated source of funds for special education - state	
General fund	[6,266,374]
	7,034,166
Total	[6,266,374]
	7,034,166

36 Supplemental Appropriation; Department of Education. Amend 1987, 400:1.06, 03, 04, 01, 03 to read as follows:

06 Education

03 Department of Education

04 Division of Standards and Certification

01 Standards and Certification

03 School Volunteer Program/Comm Ed. Ctr

	<i>FY 1988</i>	<i>FY 1989</i>
90 Contracted Services	40,254	[40,254]
		60,254
Total	40,254	[40,254]
		60,254
Estimated Source of Funds for School Volunteer Program/Comm Ed. Ctr		
General Fund	40,254	[40,254]
		60,254
Total	40,254	[40,254]
		60,254

37 Transportation; Rent and Moving Expense. Amend 1987, 400:1.04,01,05,01 class 23 to read as follows:

23 Rent and moving expense * F 6,000

38 Transportation; Grants. Amend 1987, 400:1.04,01,05,01 class 97 to read as follows:

	<i>FY 1988</i>	<i>FY 1989</i>
97 Grants-joint state and federal ***F	100,000	100,000

39 Transportation; Federal/State Projects. Amend 1987, 400:1.04,01,05,02,01 class 90 to read as follows:

	<i>FY 1988</i>	<i>FY 1989</i>
90 Federal/state projects F	1,900,000	1,900,000

40 Supplemental Appropriation; New Hampshire Retirement System. In addition to any other sums appropriated to PAU 01,10,01, the sum of \$26,707 is hereby appropriated to the following classes for the fiscal year ending June 30, 1989.

FY 1989

10 Personal Services-Permanent	\$20,241
30 Equipment	2,013
60 Benefits	4,453
Total	26,707

Estimated source of funds for Administration

09 Retirement adm	26,707
Total	26,707

41 Notation Added; Legislature; Date Processing Needs. Amend 1987, 400:1.01, 02, 01, 03, 01 class 91 for fiscal year 1988 to read as follows:

	<i>FY 88</i>
91 Data processing needs *	500,000
* The funds appropriated for class 91 shall be nonlapsing.	

42 New PAU. Amend 1987, 400:1.05, 02, 03, 05 by inserting after PAU 05, 02, 03, 05, 16 the following new PAU:

05 Health and social services
 02 Department of health and human services
 03 Division of children and youth services
 05 Bureau of residential services
 17 Philbrook center - long term in-patient unit

	<i>FY 1989</i>
10 Personal services-permanent	445,038
20 Current expenses	36,833
30 Equipment	28,804
50 Other personal services	54,167
60 Benefits	101,976
70 In-state travel	26,250
80 Out-of-state travel	19,662
90 Contracted services	66,667
97 Maintenance	7,000
98 Maintenance	8,000

Total	794,397
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Estimated source of funds for Philbrook Center-longterm in-patient unit

05 County revenue	153,796
General fund	640,601
Total	794,397

The child and adolescent services and programs grant study shall submit an interim report on the current status of the delivery of psychiatric services to children by April 1, 1989, to the senate president, speaker of the house, and the chairmen of the house committee on appropriations, house committee on children, youth, and elderly affairs, senate finance committee, and senate executive departments committee.

43 Supplemental Appropriation; Department of Health and Human Services; Special Education Program. In addition to any other sums previously appropriated, the following sums are appropriated to 1987, 400:1.05, 02, 03, 05, 13 for fiscal year 1989:

	<i>FY 1989</i>
10 Personal services-permanent	171,329
20 Current expenses	4,167
30 Equipment	9,600
50 Other personal services	56,719
60 Benefits	41,748
Total	283,563
Estimated source of funds for special education program	
05 County revenue	54,898
General fund	228,665
Total	283,563

44 Supplemental Appropriation; Department of Health and Human Services. In addition to any other funds appropriated, the following sums are appropriated to 1987, 400:1.05, 02, 03, 05, 12 for fiscal year 1989:

	<i>FY 1980</i>
10 Personal services-permanent	96,938
20 Current expenses	4,667
30 Equipment	11,600
50 Other personal services	2,083
60 Benefits	21,472
92 Maintenance	33,000
93 Maintenance	8,333
98 Maintenance	833
Total	178,926
Estimated source of funds for ADC Unit	
05 County Revenue	26,520
General fund	152,406
Total	178,926

45 Supplemental Appropriation; Department of Health and Human Services; Philbrook Center-Administration. In addition to any other funds appropriated, the following sums are appropriated to 1987, 400:1.05, 02, 03, 05, 10 for fiscal year 1989:

	<i>FY 1989</i>
10 Personnel services-permanent	14,508
20 Current expenses	7,860
21 Food	54,227

23 Utilities	2,917
30 Equipment	6,500
49 Trans. to N.H.H.	165,297
50 Other personal services	8,333
60 Benefits	3,252
70 In-state travel	4,167
80 Out-of-state travel	4,167
93 Maintenance	10,000

Total 281,228

Estimated source of funds for Philbrook center-
administration

05 County revenue	54,446
General fund	226,782
Total	281,228

46 Supplemental Appropriation; Department of Health and Human Services; New Hampshire Hospital. Amend 1987, 400:1.05, 02, 05, 04, 02 class 20 for fiscal year 1989 to read as follows:

	<i>FY 1989</i>
20 Current expenses	[1,568,872]
	1,734,169

47 Total and Funding Sources Adjusted. Amend the totals and estimated sources of funding for 1987, 400:1.05, 02, 05, 04, 02 for fiscal year 1989 to read as follows:

	<i>FY 1989</i>
Total	[8,992,657]
	9,157,954
Estimated source of funds for support services	
01 Transfer from other agencies	[559,338]
	724,635
General fund	8,433,319
	[8,992,657]
Total	9,157,954

48 Glencliff Home for the Elderly; Nonlapsing Appropriation. Amend 1987, 400:1.05, 02, 05, 02, 03 class 48 to read as follows:

	<i>FY 88</i>	<i>FY 89</i>
48 Cont. Maint Bldgs & Grounds	G	55,000
		43,174

49 Laconia State School; Nonlapsing Appropriation. Amend 1987, 400:1.05, 02, 05, 03, 02 class 48 to read as follows:

48 Cont. Maint Bldgs & Grounds	G	143,000
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50 New Hampshire Hospital; Nonlapsing Appropriation. Amend 1987 400:1.05, 02, 05, 04, 02 class 48 to read as follows:

48 Cont. Maint Bldgs & Grounds G	169,500
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51 Cosmetology and Barbering Board; Appropriation. Amend 400:1.05, 02, 07, 01 to read as follows:

05 Health and social services

02 Department of health and human services

07 Admin attached boards

01 Cosmetology & barbers board

	<i>FY 88</i>	<i>FY 89</i>
10 Personal services -		
permanent	50,135	52,479
20 Current expense	[10,537]	[10,537]
	10,731	10,588
28 Transfers to general services	5,208	5,340
30 Equipment	8,000	
50 Other personal services	[14,390]	[14,798]
	19,370	19,798
60 Benefits	[11,557]	[12,656]
	12,383	13,605
70 In-state travel	5,564	5,628
80 Out-of-state	1,000	1,000
Total	[106,391]	[102,625]
Estimated source of funds for	112,391	108,625
Cosmetology & barbers bd		
General Fund	[106,391]	[102,625]
	112,391	108,625
Total	[106,391]	[102,625]
	112,391	108,625

52 Supplemental Appropriation; Department of Transportation. Amend 1987, 400:1.04, 01, 02, 05, 02 by replacing all after line 92 with the following:

	<i>FY 88</i>	<i>FY 89</i>
93 Salted Wells-Raymond *	100,000	-0-
Total	327,000	229,000

Estimated source of funds for Claims

Highway funds	327,000	229,000
Total	327,000	229,000

* The funds in this appropriation shall not lapse until June 30, 1989, and shall be used only for the purpose of replacing 2 wells at Liberty Tree Acres in the town of Raymond, or connecting the residents of Liberty Tree Acres to the Raymond municipal water supply. The department of transportation, after consultation with the town of Raymond, shall determine which course of action is appropriate.

53 Transfer; Secretary of State. Amend 1987, 400:1, 01, 05, 02 class 20 to read as follows:

	<i>FY 88</i>	<i>FY 89</i>
20 Current expenses	[162,700]	172,300
	162,600	
30 Equipment	1000	

54 Supplemental Appropriation; Footnote Inserted; Department of Safety; Traffic Bureau. In addition to sums appropriated in 1987, 400:1. 02, 15, 04, 03 for the department of safety, traffic bureau, for fiscal year 1989, the following is appropriated for 3 additional trooper positions:

	<i>FY 89</i>
10 Personal services-permanent	69,489
19 Pol/F&G/Hwy	2,406
20 Current expenses	4,500
30 Equipment	42,429
60 Benefits	15,288
70 In-state travel	15,000
80 Out-of-state travel	600
Total	149,712
Estimated source of funds for Traffic bureau	
02 Highway funds	134,740
06 Traffic bureau-central tpk	8,833

07 Traffic bureau-blue star	3,893
08 Transfer from hwy Spaulding	2,246
Total	149,712

The commissioner of safety is authorized to transfer 5 existing law enforcement positions and funds for such positions to the detective bureau, PAU 02, 15, 04, 02 in fiscal year 1989.

55 Supplemental Appropriation; Department of Transportation. Amend 1987, 400:1.04, 01, 07, 04 class 90 for fiscal year 1989 to read as follows:

	<i>FY 89</i>
90 Transfers to department of safety	[26,948,711]
	27,083,451

56 Totals of Funding Sources Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.04, 01, 07, 04 for fiscal year 1989 to read as follows:

	<i>FY 89</i>
Totals	[30,233,551]
	30,368,291
Estimated source of funds for Transfers to other agencies	
Highway funds	[30,233,551]
	30,368,291
Total	[30,233,551]
	30,368,291

57 Supplemental Appropriation; Department of Transportation. Amend 1987, 400:1.04, 01, 07, 01 for fiscal year 1989 to read as follows:

04 Transportation
 01 Department of transportation
 07 Other highway support
 01 Special retirement

	<i>FY 89</i>
90 Special retirement	1,820
96 Hospitalization grp life ins	[635,172]
	935,172
Total	[636,992]
	936,992
Estimated source of funds for Special retirement	
Highway funds	[636,992]
	936,992
Total	[636,992]
	936,992

58 Appropriation Made Nonlapsing. Amend 1987, 396:6 to read as follows:

396:6 Appropriation. The sum of \$100,000 is hereby appropriated to the office of alcohol and drug abuse prevention for the fiscal year ending June 30, 1988. This appropriation shall [be lapsing] not lapse until June 30, 1989, and shall cover the costs of the first year of operation of the multiple DWI offender intervention detention center program which, after its first year of operation, shall be self-supporting. This appropriation is in addition to any other funds appropriated to the office of alcohol and drug abuse prevention. The office may accept any federal funds or other funds which become available for purposes of the program. If federal funds or other funds become available in an amount which exceeds \$150,000, the state appropriation may be reduced so long as the total amount of state, federal, and other funds available for the program is not less than \$250,000. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

59 Reduced Appropriation; Liquor Commission. Amend 1987, 400:1.02, 13, 04, 01 to read as follows:

02 Administration of justice and public protection

13 Liquor commission

04 Merchandising

01 Administration

	<i>FY 88</i>	<i>FY 89</i>
10 Personal services-		
permanent	[368,154]	[385,282]
	356,005	330,007
20 Current expenses	10,522	11,194
30 Equipment	1,200	
50 Other personal services	12,026	12,026
60 Benefits	[78,172]	[85,665]
	75,621	73,504
70 In-state travel	9,215	9,215
80 Out-of-state travel	2,500	2,500
Total	[481,789]	[505,882]
	467,089	438,446
Estimated source of funds for Administration		
General fund	[481,789]	[505,882]
	467,089	438,446
Total	[481,789]	[505,882]
	467,089	438,446

60 Supplemental Appropriation; Liquor Commission. Amend 1987, 400:1.02, 13, 01, 01 to read as follows:

02 Administration of justice and public protection

13 Liquor commission

01 Office of the commissioner

01 Administration

10 Personal services-

permanent	61,858	65,387
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11 Commissioners	46,400	151,993
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12 Exec director	12,149	55,275
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20 Current expenses	60,928	67,850
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40 Indirect costs	536,244	546,968
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60 Benefits	[43,734]	[47,823]
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	46,285	59,984
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70 In-state travel	1,575	1,575
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80 Out-of-state travel	3,241	3,241
------------------------	-------	-------

Total	[853,980]	[884,837]
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	868,680	952,273
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Estimated source of funds for Administration

General fund	[853,980]	[884,837]
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	868,680	952,273
--	---------	---------

Total	[853,980]	[884,837]
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	868,680	952,273
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61 Supplemental Appropriation; Department of Corrections.
Amend 1987, 400:1.02, 16, 01, 01 for fiscal year 1989 to read as follows:

02 Administration of justice and public protection

16 Department of corrections

01 Office of commissioner

01 Administration

	<i>FY 1989</i>
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10 Personal services - permanent	[189,501]
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	237,665
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11 Personal services-unclassified	54,675
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20 Current expenses	[28,803]
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	29,803
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30 Equipment	2,000
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50 Other personal services	10,527
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60 Benefits	[54,510]
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	65,106
--	--------

70 In-state travel	[1,690]
--------------------	---------

	2,690
--	-------

80 Out-of-state travel	4,000
------------------------	-------

Total	[343,706]
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	406,466
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Estimated source of funds for Administration

General fund	[343,706]
	406,466
Total	[343,706]
	406,466

62 Supplemental Appropriation; Commission on the Handicapped.
Amend 1987, 400:1.01, 03, 03, 01 class 90 to read as follows:

	<i>FY 1988</i>	<i>FY 1989</i>
90 Special Olympics	[15,000]	[15,000]
	25,000	25,000

63 Totals and Funding Sources Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.01, 03, 03, 01 to read as follows:

	<i>FY 88</i>	<i>FY 89</i>
Total	[184,035]	[195,654]
	194,035	205,654
Estimated source of funds for commission on the handicapped		
General fund	[184,035]	[195,654]
	194,035	205,654
Total	[184,035]	[195,654]
	194,035	205,654

64 Transfer; Department of Insurance. Amend 1987, 400:1.02, 11, 01, 29 for the fiscal year 1988 to read as follows:

	<i>FY 1988</i>
29 Transfers to infor services	[10,709]
	31,709

65 Totals and Sources of Funds Adjusted. Amend the estimated totals and sources of funds for 1987, 400:1.02, 11, 01 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
Total	[940,093]
	961,093
Estimated source of funds for Administration	[940,093]
	961,093
09 Administrative assessment	[940,093]
	961,093

66 Transfer; Department of Insurance. Amend 1987, 400:1.02, 11, 02, 70 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
70 In-state travel	[31,000]
	10,000

67 Totals and Sources of Funds Adjusted. Amend the estimated totals and sources of funds of 1987, 400:1.02, 11, 02 for fiscal year 1988 to read as follows:

	<i>FY 1988</i>
Total	[883,663]
	862,663
Estimated source of funds for Examination division	
09 Examination revenue	[883,663]
	862,663
Total	[883,663]
	862,663

68 Supplemental Appropriation; Department of Postsecondary Vocational-Technical Education. Amend 1987, 400:1.06, 04, 04, 03 by inserting the following:

	<i>FY 1989</i>
90 Security system	30,000

69 Totals of Funding Source Adjusted. Amend the totals and estimated source of funds for 1987, 400:1.06, 04, 04, 03 for fiscal year 1989 to read as follows:

	<i>FY 1988</i>
Total	[187,304]
	217,304
Estimated source of funds for Women's dormitory	
09 NHTI Concord women's dorm	[187,304]
	217,304
Total	[187,304]
	217,304

70 Supplemental Appropriation; Department of Postsecondary Vocational-Technical Education. Amend 1987, 400:1.06, 04, 04, 04 for fiscal year 1989 by inserting the following:

	<i>FY 1989</i>
90 Security system	30,000

71 Totals of Funding Source Adjusted. Amend the totals and estimated source of funds for 1987, 400:1.06, 04, 04, 04 for fiscal year 1989 to read as follows:

	<i>FY 1989</i>
Total	[108,645]
	138,645
Estimated source of funds for Men's dormitory	
09 NHTI men's dorm revenue	[47,986]
	77,986
General fund	60,659
Total	[108,645]
	138,645

72 Appropriation; Office of Emergency Management. The sum of \$750,000 from funds set aside in fiscal year 1987 in accordance with 1987, 399:10, II is hereby appropriated to the office of emergency management for the biennium ending June 30, 1989, for the purpose of providing matching funds for flood damage costs.

73 Supplemental Appropriation; Auctioneers Board. Amend 1987, 400:1.01, 05, 06 class 80 to read as follows:

	<i>FY 1988</i>	<i>FY 1989</i>
80 Out-of-state travel	[2,000]	[2,000]
	5,000	5,000

74 Totals and Funding Sources Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.01, 05, 06 to read as follows:

	<i>FY 1988</i>	<i>FY 1989</i>
Total	[22,509]	[22,561]
	25,509	25,561

75 Supplemental Appropriation. Amend 1987, 400:1.02, 06, 09, class 70 to read as follows:

	<i>FY 1988</i>	<i>FY 1989</i>
70 In-state travel	2,854	[1,954]
		4,800

76 Totals and Funding Sources Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.02, 06, 09 to read as follows:

Total	31,845	[32,145]
		34,991
Estimated source of funds for comm status of women		
General fund	31,845	[32,145]
		34,991
Total	31,845	[32,145]
		34,991

77 Supplemental Appropriation; Liquor Commission; One Additional Liquor Inspector for the North Country. Amend 1987, 400:1.02, 13, 01, 02 class 10 and 60 for fiscal year 1989 to read as follows:

	<i>FY 1989</i>
10 Personal services - permanent	[753,279]
	776,542
60 Benefits	[165,840]
	170,839

78 Totals and Funding Sources Adjusted. Amend the totals and estimated sources of funds for 1987, 400:1.02, 13, 01, 02 for fiscal year 1989 to read as follows:

	<i>FY 1989</i>
Total	[1,061,091]
	1,089,353
Estimated source of funds for regulation	
General Fund	[1,061,091]
	1,089,353
Total	[1,061,091]
	1,089,353

79 Appropriation; Bicentennial Commission. Amend 1985, 299:5 as amended by 1987, 59:1 to read as follows:

299:5 Appropriation. The sum of \$20,000 is hereby appropriated to the New Hampshire bicentennial commission on the United States Constitution established by this act and 1981 senate concurrent resolution 2, for the fiscal year ending June 30, 1985, [and] the sum of \$150,000 is hereby appropriated to such commission for the fiscal year ending June 30, 1987, and the sum of \$25,000 is hereby appropriated to such commission for the fiscal year ending June 30, 1988, for the purposes of enabling the commission to prepare an appropriate commemoration of this historic event. The governor is authorized to draw his warrant for said sums out of any money in the treasury not otherwise appropriated. The appropriations shall be deposited in a separate nonlapsing fund to be known as the United States Constitution bicentennial commission fund which shall be administered by the office of legislative accounting. In addition to the \$20,000, [and] \$150,000, and \$25,000 appropriations, all moneys received under section 2, II of this act are also appropriated to the commission for the purposes of this act. The appropriations shall not lapse on June 30, 1985, [or] on June 30, 1987, or on June 30, 1988. The commission may expend moneys from the fund for its purposes through [the fiscal year ending on June 30, 1988] December 31, 1988,

and shall not cease to exist until December 31, 1988. Any moneys remaining in the fund on [June 30, 1988] December 31, 1988, shall not lapse and shall be deposited in the historical fund established by RSA 177:4-b.

80 Supplemental Appropriation; Department of Education. Amend 1987, 400:1. 06, 03, 01, 01 by replacing all after line 93 with the following:

94 Academic Competitions D*	15,000	15,000
Total	536,190	363,227
Estimated source of funds for Commissioner - state		
09 Literary fund	117,867	117,867
General fund	418,323	518,360
Total	536,190	636,227

*These funds shall be used as state support for travel grants to New Hampshire students attending national academic competitions.

81 Supplemental Appropriation; Department of Education. Amend 1987, 400:1.06, 03, 03, 01, 02 for fiscal year 1989 to read as follows:

06 Education

03 Department of education

03 Division of instruction

01 General instruction

02 Instruction program - state

	<i>FY 89</i>
10 Personal services - permanent	[225,502]
	254,257
20 Current expenses	[21,000]
	23,000
28 Transfers to general services	17,756
30 Equipment	[8,958]
	10,458
46 Consultants	2,330
50 Other personal services	1,000
60 Benefits	[49,685]
	56,011
70 In-state travel	[5,000]
	6,000
80 Out-of-state travel	[3,500]
	4,000
94 Workshop & conferences	2,000
Total	[336,731]
	376,812

Estimated source of funds for Instruction program - state	
General fund	[336,731]
	376,812
Total	[336,731]
	376,812

82 Catastrophic Aid for Fiscal Year 1989; Proration. If the funds appropriated for catastrophic aid for the fiscal year ending June 30, 1989, are inadequate to pay the total costs of catastrophic aid students in all districts, then catastrophic aid payments for such fiscal year shall be reduced on a prorated basis.

83 Capital Reserve. Amend 1987, 399:10, II to read as follows:

II. The state treasurer, with the prior approval of the fiscal committee and governor and council, is hereby authorized to utilize 50 percent of any general fund revenue which is in excess of \$524,320,000 for fiscal year 1987, [\$540,820,000] \$550,900,000 for fiscal year 1988, and [\$556,020,000] \$571,100,000 for fiscal year 1989, as determined by the official audit performed pursuant to RSA 21-i:8, I(h) at the close of each fiscal year for the purpose of providing funds authorized by paragraph I in lieu of issuing bonds.

84 Revised Revenue Estimates. 1987, 400:25 is repealed and reenacted to read as follows:

400:25 Estimates of Unrestricted Revenue.

GENERAL FUND	1988	1989
Beer	\$ 12,200,000	\$ 12,500,000
Board & Care	15,000,000	15,000,000
Business Profits Tax	150,000,000	156,000,000
Estate & Legacy Taxes	19,000,000	18,000,000
Insurance	40,000,000	41,000,000
Interest & Dividends Tax	27,600,000	28,500,000
Liquor	50,000,000	51,000,000
Meals and Rooms Taxes	78,500,000	85,500,000
Parks Income	5,400,000	5,400,000
Dog Racing	9,000,000	9,000,000
Horse Racing	1,000,000	1,500,000
Real Estate Transfer Tax	34,000,000	37,000,000
Telephone	9,500,000	9,800,000
Tobacco	31,000,000	30,500,000
Utilities	6,700,000	6,900,000
Other	34,500,000	34,500,000
Courts	19,500,000	21,000,000
Savings Bank Tax	8,000,000	8,000,000
Total	\$550,900,000	\$571,100,000

HIGHWAY FUND	1988	1989
Gasoline Road Toll	\$ 84,000,000	\$ 89,000,000
Motor Vehicle Fees	46,500,000	48,000,000
Miscellaneous	4,600,000	3,600,000
Total	\$135,100,000	\$140,600,000

FISH AND GAME FUND		
Fish and Game Licenses	\$ 5,640,000	\$ 5,920,000
Fines and Penalties	50,000	60,000
Miscellaneous Sales	150,000	150,000
Indirect Costs	160,000	170,000
Total	\$ 6,000,000	\$ 6,300,000

85 Totals Adjusted. The legislative budget assistant is authorized to adjust all totals as made necessary by the passage of this act.

86 Effective Date. This act shall take effect upon its passage.

*Conferees on the Part
of the Senate*

Sen. Blaisdell, Dist. 10
Sen. Bartlett, Dist. 19
Sen. Hough, Dist. 5

*Conferees on the Part
of the House*

Rep. Scamman, Rock. 19
Rep. Kidder, Merr. 2
Rep. Hager, Merr. 21
Rep. Gross, Merr. 16
Rep. Densmore, Graf. 3

Senator Bartlett moved to adopt the Committee of Conference report.

SENATOR BARTLETT: There has been some questions asked of what we have done. In section one, the total is \$1,844,000, that is the indigent defense. If you look futher on in your budget, we established a new program which you voted on this afternoon of HB 847. It allows the coordinators to try to make sure that the indigent defense money is spent to those people who are needy. These are all increases over existing money in the budget. These are not totals in the budget.

We have increased the prison for the two years, roughly \$852,000, that also has a piece of legislation that allows them to do whatever they need to do once the population exceeds the certain number.

Environmental Services, we were able to, by their own budget, increase their funds \$137,000.

There was a shortfall in D.O.T on rail safety; we appropriated that. You will note there is a principle on highway bonds. That comes out

of highway funds. That was an error that was left out of the original budget, the figures weren't given to us.

We are being very active down at the Port Authority and we have allowed some out-of-state travel. Just a change in footnotes from g to f to safety to allow transfer of funds. The vaccines, this is what you heard continually about the lack of funds for vaccines, increased cost of funds during the liability crisis. They were looking for \$1.1 million; we gave them \$300,000 and \$500,000. The settlement cost about a week ago we hit somewhere around \$900,000 to get DCYS through to today. To continue them and to finish them out in this year of the biennium is \$3.3 million.

If you will note further on you will find that there is a figure on the other page that is about \$1.5 million and that calls for the re-opening of the Philbrook Center and we think that will save us about \$1.5 million a year. That will allow those students that we are sending out of state at high cost to be treated and cared for within our own facility. Postsecondary education is a credit here.

This is the year 1988 supplemental appropriations for building aid. The projections which are now in place show \$156,000 needed to meet our obligations. If you will note, there is nothing there in 1989 in increased funding. The present fundings in state being placed, we don't know what the necessary fundings are going to be; we will address that in 1989 and that will be one of our top priorities.

Section 34, 35, general funds for catastrophic aid is \$700,792. That is an increase. If you will note there is no figure in the second year of the biennium. Again, this is one of those figures that we cannot attain until later on and that will be addressed in the first part of 1989. Those two figures on the committee of conference were set as priorities in 1989 because they are obligations we've agreed to fund in the past.

School volunteer program, \$20,000 of general funds. Aeronautics, they made them non-lapsing. Hearing office in the retirement division that came from a result of a request from the LBA committee to fiscal, non-lapsing in the legislative branch and, I think that is fairly a good piece of legislation. This is the program that I had mentioned in Philbrook, general funds are \$1.2 million plus there was other funds in there, it makes it about \$1.3 million plus, non-lapsing of the three lines for Glencliff, Laconia and New Hampshire Hospital. Barber and cosmetology is an increased funds and new funds from

\$6,000 in each year making a total of 12,000. There is a repair of salted wells in Raymond for the tune of \$100,000, that comes out of highway funds. Established class 30 for Secretary of State for no charge. Transfer of five troopers from the trooper area into the detective branch, and allowing an additional 3 troopers on the state police personnel. The hospital insurance for the department of transportation, that is the figure that should have been in before.

Sections 59, 60 actually establish executive director position of liquor commission, which we passed the legislation last year and omitted the position in the funding part but, the money is in the budget.

The internal audit section for the Department of Corrections, this again comes out in the LBA audit, so thaey need to have closer look at the audit over there in the funding.

When we talk about hearings, officers and retirement this is to make, we hope, the department more efficient and that the monies will be properly collected and handled.

Special Olympics \$20,000. The transfer of funds from the insurance department. Security for dormitory and voc-tech is \$30,000 each section, a total of \$60,000. Out of state travel for the auctioneer boards, House priority of 3 and 3 make it a total of 6. The commission of status of women travel \$28,460. One additional liquor inspector, we understand they are having trouble with the North country, for \$28,380. Additional funds for the bicentennial commission of \$25,000, the request is for \$15,000. Travel for academic competitions, 15 and 15 for a total of \$30,000. Art and music consultant department of education \$40,000.

Section 82, at the request of the Senate, was proration of short falls in funding the catastrophic aid. We had to allow access to the capital reserve funds in 1988-1989 and not touch the capital reserve funds or the general operating budget in 1987. We gave the LBA the authority to adjust things.

When we got all done, we increased the revenues in room and meals by \$500,000 to \$85,500. We have for a balance in the plus side of about \$3 billion general fund budget or \$3 billion budget of about \$522,000.

For those of you who have been interested about the capital reserve fund, we took \$750,000 from that, which was designated for the flood of last year. \$278,000 to take care of this building and fund the study

for the fire committee standards. \$1 million for construction to be matched in the homeless section of HB 1204.

I would be happy to try to answer any questions you might have.

SENATOR JOHNSON: It sounds like I should be able to go back to the 14 towns of my district and say that they should feel good that the school building aid has been funded and the catastrophic aid has been funded. Is that true?

SENATOR BARTLETT: Senator Johnson, we have properly funded that in 1988. I'm not going to tell you we are going to do it in 1989 but, we intend to do it in 1989.

SENATOR NELSON: Senator Bartlett, on page 31 at the bottom of the page it has to do with proration. If the funds appropriated for catastrophic aid for the fiscal year ending June 30, 1989 are inadequate, you gave the total cost of catastrophic aid students in all districts and catastrophic aid for such fiscal issue shall be reduced on a prorated basis?

SENATOR BARTLETT: Question is, the method they use now, they take the poorest towns and they pay the taxes this way, if they run out, the towns which are more affluent get nothing. Under the catastrophic formula's presently in place, the poorer towns get fully funded if money lasts. If they get through the towns which on the Augenblick formula, the assessment or which ever it is, when you get down to the more affluent towns, Nashua, like that, then the money could run out and you would get no catastrophic aid. This prorates that between all the cities and towns in the state, if the funds are not total. We intend to fund it total. In absence of that, then the proration of money that would have gone to all of the cities and towns in the state, would be the answer as opposed to those towns not getting any in the more affluent towns. They start from the poorer towns to the richer towns.

SENATOR NELSON: Then I would like to be against that part of the budget, would you believe?

SENATOR BARTLETT: I guess my answer would be that, if I came from a fairly affluent community, I would think this to be my advantage. This was the Senate position. I would assume that you would be voting in favor of this.

SENATOR NELSON: Would you believe that I didn't hear you correctly at the beginning of the statement and recind that remark, that ridiculous remark I just made.

SENATOR CHANDLER: Senator Bartlett, am I right in assuming that when you said that the committee increased various revenue amounts, that what you really meant was they increased the estimate amount?

SENATOR BARTLETT: That is correct. We took the estimated revenues in the prior budget and increased those with the newest knowledge that we felt we had regarding the budget, and increased those budgets. That is were the money was arrived to do the spending.

Committee of Conference Report Adopted.

Recess

Out of Recess

Senator Bartlett in the Chair.

HOUSE MESSAGE

HOUSE REFUSED TO ADOPT COMMITTEE OF CONFERENCE REQUEST NEW COMMITTEE OF CONFERENCE

HB 917, making technical changes for the department of revenue administration.

The Speaker appointed Reps. Hawkins, McCain, Hayes, Rosenkrantz.

HB 594, relative to county victim assistance programs and making an appropriation therefor.

The Speaker appointed Reps. F. Robinson, Martling, H. Townsend, Lussier.

Senator Podles moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Podles, Dupont and Blaisdell.

TAKEN OFF THE TABLE.

Senator Hounsell moved to take HB 948 off the table.

Adopted.

SENATOR HOUNSELL: I understand that the time is late and that there is not much I can do about this bill. I find it is unfortunate that the House wouldn't agree to the Senate's position. However, I thank the Senate members for allowing me the opportunity to give it one last try. I think that it is unfortunate that we can't pass this in some form so that we can help a community that is trying to help themselves. I thank the Senators for the consideration and this showboat will sit down.

COMMITTEE OF CONFERENCE REPORT ON HB 948

The committee of conference to which was referred House Bill 948, An Act allowing a village district to be established for the purposes of transportation of people in the village district having considered the same, report the same with the following recommendations:

having considered the same, report the committee is unable to reach agreement.

Conferees on the Part of the Senate

Sen. Preston, Dist. 23

Sen. Heath, Dist. 3

Sen. Johnson, Dist. 17

Conferees on the Part of the House

Rep. Barnes, Rock. 6

Rep. Adams, Graf. 13

Rep. West, Merr. 21

Rep. Baldizar, Hills. 22

Senator Preston moved to adopt the Committee of Conference report.

Adopted.

SUSPENSION OF JOINT RULES

Senator Dupont moved that the Joint Rules be so far suspended as to allow the committee of conference reports on HB 1061, HB 917, HB 551, HB 990, HB 1088, HB 1180, and SB 305 received after the deadline.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 551-FN

The committee of conference to which was referred House Bill 551-FN, An Act establishing a study committee relative to computer-based public records, having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 Designation of Areas; Licenses. Amend RSA 21-I by inserting after section 14 the following new section:

21-I:14-a Designation of Areas of Expression.

I. In this section:

(a) "Expression" means any demonstration, protest, dissemination of information or solicitation of funds or support. This definition shall not include activity conducted during and incidental to the carrying on of business with the state in the public building.

(b) "Public building" means any building owned or leased by the state.

II. The commissioner of administrative services shall, upon the request of the head of any of the state agencies occupying a public building, designate areas in or around such public building which may be used by individuals or groups who desire to conduct political, religious, or charitable expression. Such expression shall be limited to these areas. In his designation of these areas, the commissioner shall advance the dual interests of protecting the safety and convenience of the public using the building, and providing the expressing individual or group with ample opportunity to communicate with the public.

III. Use of these areas shall be limited to individuals or groups who obtain a license for such use from the commissioner of administrative services. The commissioner may establish procedures for obtaining these licenses, which procedures shall provide, at a minimum, that:

(a) No regard be given to the content of the information to be conveyed or the thoughts, beliefs, opinions or goals of the applicant;

(b) The licenses shall be issued on a first-come, first-served basis.

IV. Notwithstanding RSA 21-I:14-a, III, the license shall be valid only so long as the licensee complies with all applicable statutes, rules, or court orders.

V. The commissioner of administrative services shall adopt rules, under RSA 541-A, relative to the designation of areas and

licensing procedures for religious, political or charitable expression at public buildings, provided that such rules receive the attorney general's approval prior to submission to the legislative committee on administrative rules.

VI. Any person who conducts expression as defined in this section in an area designated by the commissioner of administrative services without having a license to do so shall be guilty of a violation for the first offense and a misdemeanor for any subsequent offense.

2 Rulemaking Added. Amend RSA 21-I:14 by inserting after paragraph XIV the following new paragraph:

XV. Areas and licensing procedures for religious, political or charitable expression at public buildings in accordance with RSA 21-I:14-a.

3 Effective Date. This act shall take effect upon its passage.

*Conferees on the Part
of the Senate*

Sen. Podles, Dist. 16

Sen. Blaisdell, Dist. 10

Sen. Dupont, Dist. 6

*Conferees on the Part
of the House*

Rep. Hawkins, Belk. 5

Rep. McCain, Rock. 11

Rep. MacDonald, Carr. 6

Rep. Rosencrantz, Rock. 15

Senator Dupont moved to adopt the Committee of Conference report.

SENATOR PRESTON: Just a very brief point. This bill originally included a section of the amendment that we had to on the floor, regarding access of LBA to the computer data and financial information. That is stricken out of the bill as I understand it now. They plan to restore it and respond more quickly. What is now contained in here is giving the authority to Mr. Kennedy to regulate certain types of demonstrations and behavior outside state public buildings. The only point I want to make is this. I know this passed the Senate; it deals with the LaRouche people standing outside the Department of Safety or other public buildings. The only point I want to make is it seems that when we address bills, the landlord tenant bills, we are addressing bad tenants, we address bad landlords, we address bad professional people. In this case, we are addressing a fresh element, the behavior of which none of us really like, this aggressive behavior, so we pass a bill that broad brushes every segment where there may be real freedom of expression that can be controlled by an administrator. I just don't think it is a good precedent to establish. If you want to exaggerate this, I think conceivably you could have some

people who want to demonstrate for or against abortion outside the building and they could say ok, you may do that from 7 to 8 in the morning and nobody is in session, so forth. I'm just concerned, I think, though the existing laws there, according to people we heard, I don't like the aggressive behavior over there. I am going to vote against this because I think it can infringe on some very responsible groups who ought to have right of freedom of expression.

SENATOR DUPONT: I guess, Senator Preston probably may have aroused the concerns of some of the members in this body. I would like to lay to rest some of the points that he mentioned on. First off, I wouldn't like to think that any of my constituents or any member of this Senate should have to get off the sidewalk and walk around a person to get into a state building. That is what this bill address'. If anybody has been over to the department of safety lately and tried to walk into that building on their own, unassisted, by LaRouchites that Senator Preston mentioned, then they probably went there after hours. I, myself, have been in there a number of times in the last few days to the point of having words with one of the individuals standing out there. I just don't think my constituents, your mothers, fathers, children or whatever should have to go through that to into a state building to conduct their business.

We amended this today to put in a provision and there is the issue of constitutionality, rules will be submitted to the legislative rules committee. Prior to there being submitted, they will be approved by the attorney general. Anybody who that thinks that we are denying anybody any liberties that they presently have is mistaken on this bill. This is not a statement against any group whether they are pro-life or pro-choice or LaRouchites or whatever. It basically says that the citizens of this state should have an opportunity to visit and do their business in a state building without being harrassed. This bill ought to pass and get sent over to the House where they can pass it and we can continue on doing what we have been doing in our state buildings, and that is providing a comfortable atmosphere for people to be able to conduct state business. That is what this bill is about and the members of this body ought to reaffirm that by voting for this.

SENATOR JOHNSON: Senator Dupont, if it were not for the La-Rouche forces behaving the way they did, would this issue ever come up?

SENATOR DUPONT: Senator, it probably wouldn't and it is unfortunate that we have to have this bill in front of us today. I think it is important to protect the rights and liberties of the people of this state.

SENATOR JOHNSON: Would you believe, Senator Dupont, if I really believed that I would indeed support this. I probably will anyway but, my question really is this, are you talking about the department of safety where our state police headquartered there and you, a citizen of this state, in addition to being a state Senator, could not move into that building without being harrassed? Is that really what happens over there, Senator?

SENATOR DUPONT: It is my understanding that even though it is the state police building that they don't have the authority to move these people from the premise unless somebody files a complaint.

SENATOR JOHNSON: Will this have any kind of a negative impact on the other groups that come to the State House to demonstrate and express themselves?

SENATOR DUPONT: I don't believe it is the intention of any member of this legislature to prevent any member that wants to come and demonstrate and do whatever they feel they need to do to get their message across, they should have that opportunity. I would suspect that when the rules are drawn up to enforce this provision, that that will be taken into consideration.

SENATOR HOUNSELL: I started out agreeing with Senator Preston and after the statements I have got a question to ask of you before I decide how I may feel about this. Senator Preston raised a point that is of some concern but I don't see it reflected in the bill and that is, to the time frame of when these activities can be administered. Is it my understanding, by the reading of the bill, that the commissioner of administrative services only talks about where but not when or how or what?

SENATOR DUPONT: It does not allow him the opportunity to decide who is going to protest and who is not. It merely says that he will designate areas for the expression of those views whether they be political, religious or whatever. So, no one, to my understanding, is going to be denied the opportunity to demonstrate at 9:00 o'clock in the morning if they want to.

SENATOR HOUNSELL: What about midnight.

SENATOR DUPONT: Midnight if they want to.

SENATOR HOUNSELL: Is it my understanding then, that we are not giving any authority to anyone that denies anyone their opportunity to express themselves when they like and, how they might like, only where they can?

SENATOR DUPONT: That is correct Senator. The bill specifically states that the commissioner shall advance the dual interest of protecting the safety and also, the expressing individual group with ample opportunity to communicate with the public.

SENATOR FREESE: Is it not true, Senator Dupont, that this bill was formulated with the help of the attorney general's office, so that it would be quite positively clear that it would not be unconstitutional for any rights of any individuals, is that not true?

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 1204-FN-A

The committee of conference to which was referred House Bill 1204-FN-A, An Act establishing a grant-in-aid program to be administered by the division of mental health and developmental services, department of health and human services, to provide temporary emergency shelter for the destitute and making an appropriation therefor, and establishing the affordable housing fund within the New Hampshire housing finance authority and making an appropriation therefor, having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 2 with the following:

2 Appropriations; Bonds Authorized.

1. The sum of \$500,000 is hereby appropriated for the biennium ending June 30, 1989, to the division of mental health and developmental services, department of health and human services, for the purposes of RSA 126-A:43-d. These funds shall be nonlapsing. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

II. The sum of \$1,000,000 is hereby appropriated to the division of mental health and developmental services, department of health and human services, for the purposes of RSA 126-A:43-c. This appropriation shall be a charge against the capital reserve account referred to in 1987, 399:10, II.

Amend the introductory paragraph of RSA 204-C:57, II as inserted by section 5 of the bill by replacing it with the following:

II. The authority shall enter into contracts for grants and loans with eligible applicants according to standards and rules that the authority shall adopt and publish. The authority shall make a good faith effort to approve applications from both for-profit and nonprofit organizations consistent with the criteria established in this paragraph. However, when entering into contracts pursuant to this section, the authority shall give priority to the affordable housing projects which meet one or more of the following criteria:

Amend the introductory paragraph of RSA 204-C:57, V as inserted by section 5 of the bill by replacing it with the following:

V. Prior to granting any assistance pursuant to RSA 204-C:57, II, the authority shall find with respect to each such commitment:

Amend RSA 204-C:57 as inserted by section 5 of the bill by inserting after paragraph VI the following new paragraph:

VII. Prior to granting any assistance pursuant to 204-C:57, II for new construction, the authority shall hold a public hearing in the community in which the proposed project is to be located.

Amend the introductory paragraph of RSA 204-C:62 as inserted by section 5 of the bill by replacing it with the following:

204-C:62 Rulemaking. Notwithstanding RSA 204-C:53, the authority shall adopt rules under RSA 541-A governing the affordable housing fund. Such rules shall include, but shall not be limited to:

Amend the bill by replacing section 7 with the following:

7 Appropriation. The sum of \$4,000,000 is hereby appropriated for the fiscal year ending June 30, 1989, to the housing finance authority for the purposes of section 5 of this act. This appropriation shall be nonlapsing. Allocation of these funds shall be made in 2 installments. Upon the effective date of this act, the housing finance authority

shall receive \$2,000,000 of the appropriation. When the housing finance authority determines that this amount has been expended or committed to uses authorized under section 5 of this act, it shall request that the governor and council release an additional \$2,000,000 and the governor and council shall release the same. If the housing finance authority determines that any amount of the funds appropriated under this section are not necessary for the purposes of section 5 of this act, the authority may, with the approval of the governor and council, use such funds for any public purpose consistent with RSA 204-C.

Amend RSA 204-C:66 as inserted by section 10 of the bill by replacing it with the following:

204-C:66 Sale of Property. The authority and the low or moderate income person shall enter into a contract providing that if the property is sold, or no longer owner occupied, the loan provided under this program shall be immediately due and payable. The authority shall determine the profit made from the sale, if any. The authority shall by rule establish procedures for sharing in any profit earned on resale of property purchased under this subdivision. Such rules shall establish a gradual reduction in the authority's share of any profit over time.

Amend the introductory paragraph of RSA 204-C:68 as inserted by section 10 of the bill by replacing it with the following:

204-C:68 Rulemaking. Notwithstanding RSA 204-C:53, the authority shall adopt rules in accordance with RSA 541-A relative to:

Amend RSA 204-C:68, V as inserted by section 10 of the bill by replacing it with the following:

V. Procedures for the determination of net profit, for profit sharing, and for the gradual reduction of the authority's share of profit as required under RSA 204-C:66.

Amend the bill by replacing sections 11 and 12 with the following:

11 Appropriation. The sum of \$1,000,000 is hereby appropriated to the New Hampshire housing finance authority for the fiscal year ending June 30, 1989, for the purposes of section 10 of this act. This appropriation shall be nonlapsing.

12 Bonds Authorized. To provide funds for the appropriation made in section 11 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of

\$1,000,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest of the bonds and notes shall be made from the general funds of the state.

*Conferees on the Part
of the Senate*

Sen. St. Jean, Dist. 20
Sen. Bartlett, Dist. 19
Sen. Preston, Dist. 23

*Conferees on the Part
of the House*

Rep. Parker, Ches. 11
Rep. Sytek, Rock. 20
Rep. Weymouth, Graf. 2
Rep. King, Graf. 6

Senator St. Jean moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 794-A

The committee of conference to which was referred House Bill 794-A, An Act making capital appropriations and supplemental capital appropriations, having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 Capital Appropriations. The sums hereinafter detailed are hereby appropriated for the projects specified:

I. Department of Corrections

A. Phase V prison construction	\$15,403,000
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Total appropriation paragraph I	\$15,403,000
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(The appropriation made in paragraph I, A shall not be expended, encumbered, or obligated in any way without the prior approval of an action plan by the capital budget overview committee.)

II. Department of Environmental Services

A. Jolly 7 Rock Excavation -

Piscataquog River, Goffstown	\$38,000*
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Total appropriation paragraph II	\$38,000
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11 Appropriation. The sum of \$1,000,000 is hereby appropriated to the New Hampshire housing finance authority for the fiscal year ending June 30, 1989, for the purposes of section 10 of this act. This appropriation shall be nonlapsing.

12 Bonds Authorized. To provide funds for the appropriation made in section 11 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$1,000,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest of the bonds and notes shall be made from the general funds of the state.

*Conferees on the Part
of the Senate*

Sen. St. Jean, Dist. 20

Sen. Bartlett, Dist. 19

Sen. Preston, Dist. 23

*Conferees on the Part
of the House*

Rep. Parker, Ches. 11

Rep. Sytek, Rock. 20

Rep. Weymouth, Graf. 2

Rep. King, Graf. 6

Senator St. Jean moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 794-A

The committee of conference to which was referred House Bill 794-A, An Act making capital appropriations and supplemental capital appropriations, having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 Capital Appropriations. The sums hereinafter detailed are hereby appropriated for the projects specified:

I. Department of Corrections

A. Phase V prison construction	\$15,403,000
--------------------------------	--------------

Total appropriation paragraph I	\$15,403,000
---------------------------------	--------------

(The appropriation made in paragraph I, A shall not be expended, encumbered, or obligated in any way without the prior approval of an action plan by the capital budget overview committee.)

II. Department of Environmental Services

A. Jolly 7 Rock Excavation -

Piscataquog River, Goffstown	\$38,000*
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Total appropriation paragraph II	\$38,000
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III. Department of Postsecondary

Vocational-Technical Education

A. Computer network

1. Hardware	\$366,600*
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2. Software	132,500*
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3. Communications/Facilities	100,900*
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Total appropriation paragraph III	\$600,000
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IV. Department of Resources and Economic Development

A. Visitor information & sales area	\$20,000
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B. Information & sales units	65,000
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Located at the following rest areas -

Hooksett Northbound, Seabrook, Salem -

Cannon Mtn. and Mount Sunapee

C. Computer enhancements, software & hardware

to support sales & information system	136,540
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D. Hampton harbor dredging	350,000
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Total appropriation paragraph IV	\$ 571,540
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Total state appropriation section 1	\$16,612,540
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* To be 5 year bonds.

2 Bonds. To provide funds for the appropriation in section 1 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$16,612,540 and for said purposes may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

3 Payments. The payment of principal and interest of the bonds and notes issued for the projects in section 1 of this act shall be made when due from the general fund.

4 Powers of Governor and Council. The governor and council are hereby authorized and empowered:

I. To cooperate with and enter into such agreements with the federal government, or any agency thereof, as they may deem advisable, to secure federal funds for the purposes hereof.

II. To accept any federal funds which are, or become available, for any project under section 1 beyond the estimated amounts. The net appropriation of state funds for any project for which such additional federal funds are accepted shall be reduced by the amount of such additional funds, and the amount of bonding authorized by section 2 shall be reduced by the same amount.

5 Transfers. The individual project appropriations as provided in section 1 shall not be transferred or expended for any other purposes; provided that any anticipated balance remaining in an individual project, which is fully funded by state funds, may be transferred by governor and council to any other individual project or projects, which are also fully funded by state funds, within the same section, provided prior approval of the capital budget overview committee is obtained.

6 Reduction of Appropriation and Bonding Authority. If the net appropriation of state funds for any project provided for in this act is determined on the basis of an estimate of anticipated federal, local, or other funds, and if the amount of such funds actually received or available is less than said estimate, then the total authorized cost for such project and the net appropriation of state funds therefor shall be reduced by the same proportion as the proportion by which federal, local, or other funds are reduced. The amount of bonding authorized by section 2 shall be reduced by the amount that the appropriation of state funds is reduced pursuant to this section.

7 Architectural Requirements. No new building authorized by this act shall be constructed without meeting life safety code requirements, handicapped architectural barrier free code requirements, and energy conservation code requirements.

8 Supplemental Appropriation; Rye Harbor Dredging. Amend 1985, 409:1, IX as amended by 1986, 209:1 and 1987, 358:1 to read as follows:

IX. Resources and Economic Development

A. Ski lift renovation and replacement, and snowmaking and trail improvements - Mt. Sunapee, Cannon Mt.		\$ 3,910,000
B. Coastal projects		
1. Hampton, Portsmouth harbor - marine repairs and dredging		520,000
2. Rye harbor projects		[450,000] 700,000
Total state appropriation subparagraph B		[970,000] \$ 1,220,000
C. Safety modifications and sewage Franconia Notch state park		155,000
D. Lodge expansion, water and sewer improvements - Mt. Sunapee state park		160,000
E. Building repairs, parking and sewer improvements - Wallis Sands state park		290,000
F. Handicapped facilities - state campgrounds		250,000

G. Power and water - state campgrounds	250,000
H. Safety hazards, building and sewer repairs Fort Stark	140,000
I. Parking and building repairs Franconia Notch state park	170,000
Total state appropriation paragraph IX	[\$ 6,295,000]
	\$ 6,545,000

(A sum not exceeding 1-1/2 percent of the total capital appropriation made in section 1, IX, A, may be utilized for the purpose of contract or in-house engineering services for design, maintenance, and supervision. The appropriation made in section 1, IX, A for the department of resources and economic development shall not be expended, encumbered or obligated in any way without the approval of the capital budget overview committee. The department of resources and economic development shall not dump any dredge materials resulting from the projects authorized in section 1, IX, B, 2 in any areas west of New Hampshire route 1A.)

9 Total Changed. Amend the total state appropriation section 1 as inserted by 1985, 409:1 as amended by 1986, 209:8 and 1987, 358:2 to read as follows:

[\$18,823,620]
\$19,073,620

10 Bonds Authorized; Total Changed. Amend 1985, 409:11, I as amended by 1986, 209:9; 1986, 211:13; 1986, 211:27; and 1987, 399:49 to read as follows:

I. To provide funds for the total of the appropriations of state funds made in sections 1, 2, 3, and 4 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of [\$23,806,620] \$24,056,620 and for said purposes may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

11 Supplemental Appropriations; Department of Safety; Glendale Boathouse. Amend 1986, 211:32, II to read as follows:

II. Repairs and renovations to the boathouse;
site drainage corrections

[\$75,000]
\$ 100,000

12 Total Changed. Amend the total amount as inserted by 1986, 211:32 to read as follows:

[\$393,000]
\$418,000

13 Bonds Authorized; Total Changed. Amend 1986, 211:33 to read as follows:

211:33 Bonds. To provide funds for the appropriation in section 32 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of [~~\$393,000~~] \$418,000 and for said purposes may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

14 Appropriation; Resources and Economic Development; Mt. Washington Sewage. Amend 1987, 399:1, IX, C to read as follows:

C. Mt. Washington - sewage	[\$500,000]
	\$700,000

15 Total Changed. Amend the total state appropriation paragraph IX as inserted by 1987, 399:1 to read as follows:

Total state appropriation paragraph IX	[\$ 1,690,000]
	\$ 1,890,000

16 Total Changed. Amend the total state appropriation section 1 as inserted by 1987, 399:1 to read as follows:

Total state appropriation section 1	[\$48,241,124]
	\$48,441,124

17 Bonds Authorized; Total Changed. Amend 1987, 399:10, I to read as follows:

I. To provide funds for the total of the appropriations of state funds made in sections 1, 2, and 3 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of [~~\$57,717,049~~] \$57,917,049 and for said purposes may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

18 Manchester Airport; Highway Study.

I. The general court recognizes that the Manchester airport is the largest airport in New Hampshire and is a critical element in this state's economic growth and well-being. The general court further notes that the planned growth of the Manchester airport will offer both safe and convenient air service for New Hampshire residents and an alternative to Logan Airport. Therefore, access improvements to the airport from the highway system must be made to alleviate current congestion and allow for the orderly growth of the Manchester airport area.

II. To accomplish the goals under paragraph I, the department of transportation, with input from the appropriate local communities, shall conduct a study regarding the feasibility of accomplishing the necessary access improvements from the highway system to the Manchester airport. The study shall include, but not be limited to,

developing an improvement program and evaluating various funding mechanisms for the access improvements.

19 Report. The department of transportation shall report its findings and recommendations to the speaker of the house, the president of the senate, the chairpersons of the house appropriations and public works committees, and the chairpersons of the senate capital budget and finance committees no later than July 1, 1989.

20 Appropriation. The sum of \$200,000 is hereby appropriated for the biennium ending June 30, 1989, to the department of transportation for the purposes of sections 18 and 19 of this act. This appropriation shall be a charge against the highway fund. The appropriation shall be nonlapsing.

21 Property Purchased by Department of Fish and Game.

I. The proceeds from any sale or disposition of the following described property shall be retained by the department of fish and game:

“Commencing at a stone bound set in the northerly line of Bridge Street, which bound is the northeast corner of land formerly of the Concord Coal Company and the northeast corner of the tract herein conveyed; thence running southerly along land formerly of said Concord Coal Company 260.1 feet to an iron pipe; thence easterly at right angles to said described line 140.2 feet through an iron pipe on the top of the bank of the Merrimack river and thence to mid-river; thence north up the bank of said river to land now or formerly of Blanche N. Lareau and along the westerly line of the land now or formerly of Blanche N. Lareau to a stone bound on the southerly line of said Bridge Street; thence westerly along the line of said street 172.1 feet to the bound begun at.”

II. The property described in paragraph I which is located in the city of Concord was purchased in 1953 from the Concord Ice Company, from fish and game funds and not from general fund revenues.

III. The property described in paragraph I shall be appraised twice before a sale takes place, and at least one appraisal shall be made by an appraiser from the private sector. If the property is to be transferred to any other state or municipal agency, the amount of such appraised value shall be credited to the fish and game fund.

22 Appropriation; Fish and Game Department. The sum of \$40,000 is hereby appropriated to the fish and game department for the fiscal year ending June 30, 1989, for the following purposes:

I. For surveying costs and other costs of having a deed drawn up, under the direction of the fish and game commission, describing the property on which the new fish and game department headquar-

ters facility on Hazen Drive in Concord is under construction and for the purpose of conveying such property to the fish and game department.

II. For architectural fees and other design study costs for a fish and game department garage and storage facility.

This sum shall be a charge against the fish and game fund.

23 Appropriations; Joint Committee on Legislative Facilities.

I. The sum of \$153,000 is appropriated to the joint committee on legislative facilities for the fiscal year ending June 30, 1989, for the purpose of improving the fire protection system and electrical system in the state house. Of this sum, \$100,000 shall be used for construction costs and \$53,000 shall be used for architectural and engineering fees. This appropriation shall be nonlapsing. This appropriation shall be a charge against the capital reserve fund, which is the amount in excess referred to in 1987, 399:10, II.

II. The sum of \$61,500 is appropriated to the joint committee on legislative facilities for the fiscal year ending June 30, 1989, for the purpose of conducting a feasibility study of a parking garage facility. This appropriation shall be a charge against the joint legislative account.

24 Department of Resources and Economic Development; Odiorne State Park; Ragged Neck. 1987, 399:1, IX, J is repealed and reenacted to read as follows:

J. Odiorne State Park

1. Restore unsafe batteries at Frost Point	40,000
2. Sugden House expansion	100,000
3. New year-round visitor center	800,000
Less sources other than state	-400,000
Net appropriation subparagraph J, 3	400,000
Total appropriation subparagraph J	540,000

(No more than \$100,000 of the funds appropriated by paragraph IX, J, 3, including \$50,000 in state funds and \$50,000 in funds from sources other than the state, shall be expended or encumbered in any way until the department of resources and economic development certifies to the capital budget overview committee that it has raised and can account for \$350,000 or more in gifts, grants, donations, or pledges from sources other than the state, to be used for the construction of a new year-round visitor center at Odiorne State Park.)

K. Ragged Neck-Shoreline erosion prevention	100,000
Total appropriation subparagraph K	100,000

25 Appropriation; Adjutant General; Roof Repairs - Armories. 1987, 399:1, I, B is repealed and reenacted to read as follows:

B. Roof repairs - 10 armories	\$ 389,380
Less federal	-194,200
Net appropriation subparagraph B	\$ 195,180

26 Appropriation; Fire Standards and Training Commission. The sum of \$125,000 is hereby appropriated to the fire standards and training commission for the purpose of conducting an architectural and engineering study for a new facility. This appropriation shall not be expended, encumbered, or obligated in any way without the prior approval of a plan, outlining the site and future uses for the facility, by the capital budget oversight committee. This appropriation is in addition to any other appropriation to the fire standards and training commission for the biennium ending June 30, 1989, and shall be nonlapsing. This appropriation shall be a charge against the capital reserve fund, which is the amount in excess referred to in 1987, 399:10, II.

27 Appropriation; Division for Children and Youth Services. The sum of \$120,000 is hereby appropriated to the division for children and youth services, department of health and human services, for the purpose of a youth development center sewer project to connect with the Manchester sewerage treatment system.

28 Bonds. To provide funds for the appropriation in section 27 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$120,000 and for said purposes may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

29 Payments. The payment of principal and interest of the bonds and notes issued for the project in section 27 of this act shall be made when due from the general fund.

30 Supreme Court; Lease-Purchase Agreements Authorized.

I. The supreme court is authorized to enter into long term lease-purchase agreements for the construction of district courts in Conway and Jaffrey-Peterborough, for a sum not to exceed \$2,000,000, excluding interest, for land acquisition and construction costs.

II. The supreme court shall include its request for appropriations for the lease-purchases under paragraph I as a separate class line in PAU 02, 01, 06, judicial branch programs, in its operating budget request for the biennium ending June 30, 1991.

31 Administrative Services. Amend 1985, 44:1, IV as amended by 1986, 211:30 to read as follows:

IV. Administrative services

A. Purchase and enhancements of federal district courthouse - Littleton	[\$1,000,000] 900,000
B. Purchase and enhancements of federal post office - North Main St., Rochester	[\$ 200,000] 300,000
Total appropriation paragraph IV	\$1,200,000
Total state appropriation section I	\$3,103,604

32 Lapse Date Extended; Department of Administrative Services. Amend 1987, 399:41, I to read as follows:

I. The lapse date for 1985, 44:1, IV, A and B as amended by 1986, 211:30, purchase and enhancements of the federal district courthouse - Littleton, and purchase and enhancement of federal post office, N. Main St., Rochester, is hereby extended to January 1, [1988] 1990.

33 Effective Date. This act shall take effect upon its passage.

*Conferees on the Part
of the Senate*

Sen. Torr, Dist. 21

Sen. White, Dist. 11

Sen. Nelson, Dist. 13

*Conferees on the Part
of the House*

Rep. Pearson, Belk. 5

Rep. Marsh, Coos 5

Rep. LaMott, Graf. 5

Rep. Matson, Ches. 7

Senator Torr moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON SB 349-FN-A

The committee of conference to which was referred Senate Bill 349-FN-A, An Act to provide 2 additional field staff and additional equipment to the division of air resources for statewide air quality monitoring and making an appropriation therefor having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House.

*Conferees on the Part
of the Senate*

Sen. Blaisdell, Dist. 10

Sen. Dupont, Dist. 6

*Conferees on the Part
of the House*

Rep. Greene, Rock. 18

Rep. Millard, Merr. 4

Sen. Torr, Dist. 21

Rep. LaMott, Graf. 5

Rep. Matson, Ches. 7

Senator Blaisdell moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON SB 347-FN-A

The committee of conference to which was referred Senate Bill 347-FN-A, An Act increasing rates for shared homes and making an appropriation therefor, having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House.

Conferees on the Part of the Senate

Sen. Freese, Dist. 4

Sen. Blaisdell, Dist. 10

Sen. Delahunty, Dist. 22

Conferees on the Part of the House

Rep. Butler, Rock. 11

Rep. Hawkins, Belk. 5

Rep. Sochalski, Rock. 23

Rep. O'Rourke, Hills. 35

Senator Krasker moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON SB 326-FN-A

The committee of conference to which was referred Senate Bill 326-FN-A, An Act establishing a New Hampshire rivers management and protection program and making an appropriation therefor having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend paragraph VI of section 2 of the bill by replacing it with the following:

VI. Connecticut River; excepting that segment north of the confluence of the Israel River in the town of Lancaster

Amend subparagraph (f) of paragraph I of section 3 of the bill by replacing it with the following:

(f) Connecticut River, excepting that segment north of the confluence of the Israel River in the town of Lancaster

Amend RSA 227-F as inserted by section 1 of the bill by inserting after 227-F:12 the following new section:

227-F:13 Acceptance and Expenditure of Funds.

I. The commissioner may apply for and accept, from any source, gifts; donations of money; grants; federal, local, private, and other matching funds and incentives; and interests in land for the purposes of this chapter.

II. The rivers coordinator, with the approval of the commissioner and the advisory committee, may expend any funds received under paragraph I for the purposes of this chapter, and such funds are hereby appropriated.

Amend the bill by deleting section 5 and renumbering section 6 to read as 5.

*Conferees on the Part
of the Senate*

Sen. Hounsell, Dist. 2
Sen. McLane, Dist. 15
Sen. Blaisdell, Dist. 10

*Conferees on the Part
of the House*

Rep. Dingle, Straf. 4
Rep. Blanchard, Rock. 26
Rep. Sanderson, Rock. 25
Rep. Schwartz, Ches. 13

Senator Hounsell moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON SB 261

The committee of conference to which was referred Senate Bill 261, An Act relative to setting seasons and bag limits on small game birds and animals having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend RSA 207:56, I as inserted by section 1 of the bill by replacing it with the following:

I. The executive director, after consultation with the commission, shall have the authority to open and close the seasons for the taking of small game and game birds as defined in RSA 207:1, XXVI and XI, except those birds protected under RSA 209:4, to fix the number and sex limitations for small game, and any other conditions governing the methods and manner of taking and reporting the same, subject to any restrictions imposed by statute.

Amend section 2 of the bill by deleting paragraph IX and renumbering paragraph X as IX.

*Conferees on the Part
of the Senate*

Sen. Hounsell, Dist. 2
Sen. St. Jean, Dist. 20
Sen. McLane, Dist. 15

*Conferees on the Part
of the House*

Rep. Felch, Rock. 14
Rep. Boucher, Rock. 23
Rep. Scanlan, Graf. 11
Rep. Dionne, Straf. 5

Senator Hounsell moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON SB 355-FN

The committee of conference to which was referred Senate Bill 355-FN, An Act appropriating additional sweepstakes revenues for foundation aid having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend paragraphs II and III of section 3 of the bill by replacing them with the following:

II. Notwithstanding any other provision of law or administrative rule to the contrary, the department of revenue administration shall not consider the increase in sweepstakes distribution made by section 1 of this act, received during fiscal year 1989 by any school dis-

trict, as available revenue for purposes of establishing county, city, town, or school district tax rates for calendar year 1988, unless the school district, at an annual or special meeting held under paragraph III on or before September 30, 1988, votes not to spend all or part of the distribution, and votes affirmatively to use the balance to reduce taxes, in which case the balance shall be considered available revenue for such purposes.

III. The increased sweepstakes distribution made by section 1 of this act shall be available for expenditure only if such expenditure is approved at a special or annual school meeting as prescribed in RSA 197 and RSA 32; provided, however, that, for the purpose of this act only, the provisions of RSA 197:3 requiring a ballot vote by at least 1/2 of the number of voters entitled to vote at the most recent regular school district meeting shall be suspended, and a ballot vote of 1/20 of the number of voters entitled to vote shall be sufficient, and the provisions of RSA 197:3 requiring the school board to petition the superior court for permission to hold a special school district meeting with the same authority as an annual school district meeting shall not apply.

*Conferees on the Part
of the Senate*

Sen. Blaisdell, Dist. 10

Sen. Dupont, Dist. 6

Sen. Hough, Dist. 5

*Conferees on the Part
of the House*

Rep. Hager, Merr. 21

Rep. Miller, Ches. 1

Rep. Robinson, Hills. 12

Rep. Sanderson, Rock. 25

Senator Hough moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON SB 323-FN

The committee of conference to which was referred Senate Bill 323-FN, An Act relative to providing medical assistance to children who are disabled or victims of catastrophic illness having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing sections 3 and 4 with the following:

3 Appropriation. There is hereby appropriated to the department of health and human services the sum of \$362,000 for the fiscal year ending June 30, 1989, for the purposes of this act. Said sum shall be in addition to any other sums previously appropriated to the department. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

4 Effective Date. This act shall take effect January 1, 1989.

*Conferees on the Part
of the Senate*

Sen. Nelson, Dist. 13

Sen. White, Dist. 11

Sen. Dupont, Dist. 6

*Conferees on the Part
of the House*

Rep. Wilson, Straf. 4

Rep. Tilton, Rock. 20

Rep. Sochalski, Rock. 23

Rep. Miller, Ches. 1

Senator Nelson moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON SB 317-FN

The committee of conference to which was referred Senate Bill 317-FN, An Act relative to master plans and their housing sections having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing section 1 with the following:

1 Housing Section of Master Plan. RSA 674:2, III is repealed and reenacted to read as follows:

III. A housing section which analyzes existing housing resources and addresses current and future housing needs of residents of all levels of income of the municipality and of the region in which it is located, as identified in the regional housing needs assessment performed by the regional planning commission pursuant to RSA 36:47, II.

Amend RSA 36:47, II as inserted by section 2 of the bill by replacing it with the following:

II. For the purpose of assisting municipalities in complying with RSA 674:2, III, each regional planning commission shall compile a regional housing needs assessment, which shall include an assessment of the regional need for housing for persons and families of all levels of income. The regional housing needs assessment shall be updated every 5 years and made available to all municipalities in the planning region.

*Conferees on the Part
of the Senate*

Sen. Charbonneau, Dist. 14

Sen. Heath, Dist. 3

Sen. Pressly, Dist. 12

*Conferees on the Part
of the House*

Rep. Grodin, Ches. 6

Rep. Golden, Belk. 7

Rep. McIntire, Carr. 4

Rep. Dykstra, Hills. 39

Senator Pressly moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON SB 315-FN

The committee of conference to which was referred Senate Bill 315-FN, An Act relative to the personnel appeals board, having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House.

*Conferees on the Part
of the Senate*

Sen. Stephen, Dist. 18

Sen. Freese, Dist. 4

Sen. Delahunty, Dist. 22

*Conferees on the Part
of the House*

Rep. Hawkins, Belk. 5

Rep. McCain, Rock. 11

Rep. Ward, Graf. 1

Rep. King, Graf. 6

Senator Freese moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON SB 310-FN-A

The committee of conference to which was referred Senate Bill 310-FN-A, An Act relative to the purchase and distribution of brea-

thalyzer machines and making appropriations therefor having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House.

*Conferees on the Part
of the Senate*

Sen. Blaisdell, Dist. 10

Sen. Dupont, Dist. 6

Sen. Johnson, Dist. 17

*Conferees on the Part
of the House*

Rep. Musler, Straf. 3

Rep. Sytek, Rock. 20

Rep. Townsend, Graf. 13

Rep. Morrisette, Hills. 30

Senator Blaisdell moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON SB 306-FN

The committee of conference to which was referred Senate Bill 306-FN, An Act relative to low-dose mammography screening having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend RSA 417-D:3 as inserted by section 2 of the bill by deleting it and renumbering RSA 417-D:4 and 417-D:5 to read as 417-D:3 and 417-D:4, respectively.

*Conferees on the Part
of the Senate*

Sen. Krasker, Dist. 24

Sen. Podles, Dist. 16

Sen. Bond, Dist. 1

*Conferees on the Part
of the House*

Rep. Fraser, Merr. 6

Rep. Packard, Hills. 15

Rep. Copenhaver, Graf. 12

Rep. Sanderson, Rock. 25

Senator Krasker moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON SB 305-FN

The committee of conference to which was referred Senate Bill 305-FN, An Act relative to pari-mutuel pools at dog races having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 Commission on Certain Pari-Mutuel Pools. Amend RSA 284:22, IV to read as follows:

IV. The commission on all win, place and show pari-mutuel pools at tracks or race meets at which dog races are conducted for public exhibition shall be uniform throughout the state at the rate of 19 percent of each dollar wagered in such pools; and the commission on all other pari-mutuel pools at such tracks or race meets shall be uniform throughout the state at the rate of [25] 26 percent of each dollar wagered in such pools, until June 30, 1993. In addition to the above commission, 1/2 of the odd cents of all redistribution based on each dollar wagered exceeding a sum equal to the next lowest multiple of 10, known as "breakage", shall be retained by the licensee; and the balance of such breakage shall be paid to the state treasury for the use of the state in accordance with the provisions of RSA 284:2. Each licensee shall pay the tax provided for in RSA 284:23.

2 Commission on Certain Pari-Mutuel Pools, 1993. Amend RSA 284:22, IV to read as follows:

IV. The commission on all win, place and show pari-mutuel pools at tracks or race meets at which dog races are conducted for public exhibition shall be uniform throughout the state at the rate of 19 percent of each dollar wagered in such pools; and the commission on all other pari-mutuel pools at such tracks or race meets shall be uniform throughout the state at the rate of [26] 25 percent of each dollar wagered in such pools [until June 30, 1993]. In addition to the above commission, 1/2 of the odd cents of all redistribution based on each dollar wagered exceeding a sum equal to the next lowest multiple of 10, known as "breakage", shall be retained by the licensee; and the balance of such breakage shall be paid to the state treasury for the use of the state in accordance with the provisions of RSA 284:2. Each licensee shall pay the tax provided for in RSA 284:23.

3 Tax. Amend RSA 284:23, II-a to read as follows:

II-a. Each person, association or corporation licensed to conduct a dog race or a dog race meet under this chapter shall pay to the state treasurer a sum equal to 6 percent of so much of the total contributions to all pari-mutuel pools conducted or made at any dog race or dog race meet licensed hereunder as does not exceed \$100,000; 7 percent of so much thereof as exceeds \$100,000 but does not exceed \$200,000; 9 percent of so much thereof as exceeds \$200,000 but does not exceed \$300,000; and 10 percent of all such contributions exceeding \$300,000. In addition to said sums, a licensee shall pay to the state treasurer a sum equal to [4] 5 percent of the total contributions to all such pari-mutuel pools other than win, place and show pari-mutuel pools, until June 30, 1993. The amounts so paid to the state treasurer shall be distributed in accordance with the provisions of RSA 284:2.

4 Tax, 1993. Amend RSA 284:23, II-a to read as follows:

II-a. Each person, association or corporation licensed to conduct a dog race or a dog race meet under this chapter shall pay to the state treasurer a sum equal to 6 percent of so much of the total contributions to all pari-mutuel pools conducted or made at any dog race or dog race meet licensed hereunder as does not exceed \$100,000; 7 percent of so much thereof as exceeds \$100,000 but does not exceed \$200,000; 9 percent of so much thereof as exceeds \$200,000 but does not exceed \$300,000; and 10 percent of all such contributions exceeding \$300,000. In addition to said sums, a licensee shall pay to the state treasurer a sum equal to [5] 4 percent of the total contributions to all such pari-mutuel pools other than win, place and show pari-mutuel pools[, until June 30, 1993]. The amounts so paid to the state treasurer shall be distributed in accordance with the provisions of RSA 284:2.

5 Temporary Allocation of Pari-Mutuel Tax.

I. Until June 30, 1993, in lieu of the 5 percent provision in RSA 284:23, II-a, a sum equal to 5 percent of the total contributions to all pari-mutuel pools other than win, place, and show pari-mutuel pools shall be allocated as follows: (a) 4 percent to the state treasurer for fiscal years 1989 through 1993; and (b) one percent for fiscal years 1989 through 1993, to each licensee to be used for capital expenditures for alterations, additions, replacements, changes, improvements, professional planning, or major repairs to, for, or upon the property owned or leased by any such licensee and used for such dog races or to create a fund for advertising, promotional, and marketing purposes, including reducing the costs of admission, programs, parking, and concessions. A pari-mutuel licensee shall deposit such

moneys received under subparagraph (b) in a separate interest-bearing account for each race track.

II. Prior to constructing any improvements upon the property used for racing by any such licensee, the licensee shall submit to the pari-mutuel commission and the fiscal committee a preliminary plan or sketch outlining the nature and extent of the proposed improvements. The commission may require in writing such additional specifications and plans as may be necessary to satisfy itself that the proposed improvements are, in fact, of a capital nature as distinguished from deductible expenditures for maintenance and repairs. The commission shall return its findings to the applicant licensee within 30 days after receipt of final data necessary to make such judgment. The licensee, upon receiving the commission's findings and with prior approval of the fiscal committee, may commence construction of the improvements.

III. Each licensee shall file with the pari-mutuel commission and the fiscal committee, on the first day of January, April, July, and October, its proposed advertising, promotional, and marketing program for the ensuing quarter showing the allocation of the funds in percentage terms among the various purposes to be accomplished in that quarter. Before the licensee may expend funds under this paragraph, it shall receive prior approval of the fiscal committee of the general court.

IV. Within one year of the effective date of this act, each licensee receiving the capital improvement and advertising, promotional, or marketing funds provided for in paragraph I shall report to the fiscal committee and account to the pari-mutuel commission as a separate supplement to its annual financial statement required under RSA 284:32-a. Such supplement shall be separately certified by the licensee's certified public accountant and shall show in such detail as the commission may require in writing, the itemized expenditures for the capital improvements approved by the fiscal committee under paragraph II. The supplement shall also show the expenditure for advertising, promotional, and marketing funds substantially in accord with the quarterly outlines submitted to the commission under paragraph III.

6 Study of Greyhound and Horse Racing Industry In New Hampshire. Within 30 days after the effective date of this act, as approved by the fiscal committee, the legislative budget assistant holding office under RSA 14:30 shall engage a certified public accounting firm, which is not employed by any of the licensees under RSA 284, and which is qualified to conduct economic studies and analyses, to make separate analyses of the greyhound racing industry and the horse racing industry as conducted in the state of New Hampshire and to

make 2 separate reports not later than November 15, 1988, to the fiscal committee, the senate ways and means committee, and the house regulated revenues committee. Each report shall cover the following subjects and such other topics as directed by the fiscal committee:

I. The impact of the gross revenue tax under RSA 284:23 on the continued viability of greyhound and horse racing in New Hampshire.

II. A comparison of the takeout or commission and the tax on greyhound and horse racing in New Hampshire with the takeout or commission and taxes on greyhound and horse racing in other states, and an analysis of the impact on the differential in such state commissions and taxes.

III. The extent to which state funds are made available in other jurisdictions to make capital improvements and promote greyhound and horse racing.

IV. A comparison of the funds made available by the state to promote activities under RSA 284:21-a through 21-s with funds made available by the state for the promotion of activities under RSA 284:22 and RSA 284:23.

V. The effect of existing and proposed competition from pari-mutuel wagering in New England states and selected other states for the wagering dollar and the supply of greyhounds and horses.

VI. A survey of the number of persons employed directly or indirectly in greyhound and horse racing in New Hampshire and the economic impact of such employment on the state and local economy.

VII. An analysis of the effectiveness of capital improvements and promotional activities as described in paragraph I of section 5 of this act in improving the attendance and gross revenue produced at said tracks.

VIII. The relationship of graduated tax relief to the financial health of the greyhound and horse racing tracks in New Hampshire.

7 Cost of Study. The cost of the study conducted under section 6 of this act shall be a charge against the one percent fund created by section 5 of this act. Each licensee entitled to the fund shall bear its proportional share of the cost of such study. Expenditures for the study shall not exceed \$125,000.

8 Effective Date.

I. Sections 2 and 4 of this act shall take effect July 1, 1993.

II. Section 6 of this act shall take effect upon its passage.

III. The remainder of this act shall take effect July 1, 1988.

*Conferees on the Part
of the Senate*

Sen. Blaisdell, Dist. 10

Sen. Bartlett, Dist. 19

Sen. Hough, Dist. 5

*Conferees on the Part
of the House*

Rep. Phelps, Merr. 1

Rep. Gage, Rock. 20

Rep. Gross, Merr. 16

Rep. Dion, Hills. 45

Senator Blaisdell moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 917

The committee of conference to which was referred House Bill 917, An Act making technical changes for the department of revenue administration having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

*Conferees on the Part
of the Senate*

Sen. Freese, Dist. 4

Sen. Bartlett, Dist. 19

Sen. Disnard, Dist. 8

*Conferees on the Part
of the House*

Rep. Hawkins, Belk. 5

Rep. McCain, Rock. 11

Rep. Hayes, Merr. 21

Rep. Rosencrantz, Rock. 15

Senator Freese moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON SB 301-FN-A

The committee of conference to which was referred Senate Bill 301-FN-A, An Act relative to the deadline for an environmental impact study for a 4-lane east-west highway from Concord to the Spaulding turnpike having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and

That the House recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend 1986, 203:8-a as inserted by section 1 of the bill by replacing it with the following:

203:8-a Deadline. The department of transportation shall complete the study authorized by 1986, 203:8 by June 30, 1990.

Amend paragraph II of section 3 of the bill by replacing it with the following:

II. To provide funds for the appropriations in section 8 and 8-b of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding \$3,500,000 and for said purpose may issue notes and bonds in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. The funds derived from the notes and bonds issued pursuant to this paragraph which exceed \$1,000,000 shall be used to repay the highway surplus account for the funds authorized by the fiscal committee and governor and council pursuant to 1986, 203:8-b.

Amend the bill by inserting the following new section 1, and re-numbering the present sections 1-5 to read as section 2,3,4,5, and 6, respectively:

1 Declaration of Public Interest. It is hereby declared to be in the public interest to preserve and maintain the natural beauty and character of the state's resources; to maintain the environmental quality for the overall welfare and benefit of the people of the state, and to promote efforts which will prevent or minimize any potentially adverse impact or damage to the environment while fulfilling the social, economic and other needs of the people of the state. It is further declared to be in the public interest to maintain the character of, to preserve and to avoid any interference with, the natural beauty and environmental integrity of the state's Great Bay area. The means for encouraging the goals and purposes authorized by this act are to direct the department of transportation to undertake a study of potential social, economic and environmental impacts of, and preliminary design plans for, a proposed 4-lane east-west highway from Route I-393 in Concord, to a terminus located north of exit 9 on the Spaulding turnpike. This project will be an alternate to U.S. Route 4 and U.S. Route 4 shall not be a part of the proposed east-west corridor study.

*Conferees on the Part
of the Senate*

Sen. Torr, Dist. 21

Sen. Krasker, Dist. 24

Sen. Hounsell, Dist. 2

*Conferees on the Part
of the House*

Rep. Marsh, Coos 1

Rep. Palumbo, Rock. 10

Rep. Driscoll, Graf. 8

Rep. Kincaid, Straf. 7

Senator Torr moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON SB 289

The committee of conference to which was referred Senate Bill 289, An Act authorizing the hiring of a consultant to study the effectiveness of the foundation aid formula having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend paragraphs I and II of section 1 of the bill by replacing them with the following:

I. Two members of the house of representatives, appointed by the speaker of the house.

II. Two members of the senate, appointed by the president of the senate.

Amend the bill by replacing section 2 with the following:

2 Meeting; Chair; Staff. The first-named member from the house shall arrange and call the first meeting of the committee within 30 days of the effective date of this act. At the first meeting, the members shall elect a chair from among them. The department of education shall provide staff support and research as requested by the committee.

Amend paragraphs VII-XI of section 3 of the bill by replacing them with the following:

VII. Alternatives to assure full funding of the state's portion of school construction costs.

VIII. The impact on school facilities of all state and federal statutes and regulations including, but not limited to, such environmental issues as asbestos removal, and underground oil storage tanks.

IX. New developments in education that may have an impact on school buildings.

X. Any other concerns which the committee deems germane to building aid.

Amend the bill by replacing section 5 with the following:

5 Study Authorized. The committee to evaluate the foundation aid formula, established by 1987, 264:1, is authorized, with the assistance of the legislative budget assistant, to accept bids to hire an independent consultant to work at the direction of the committee and the legislative budget assistant. The consultant shall review, study, and report on the effectiveness of the foundation aid formula contained in RSA 198:27-33, and also study the effect, if any, of the formula on the quality of education provided by the school districts. The consultant shall submit interim reports on his progress to the committee by December 1, 1988, by December 1, 1989, and by December 1, 1990. He shall submit a final report of his findings on or before September 1, 1991, to the governor, the executive council, the speaker of the house, and the president of the senate.

6 Effective Date. This act shall take effect upon its passage.

*Conferees on the Part
of the Senate*

Sen. Disnard, Dist. 8

Sen. Nelson, Dist. 13

Sen. Johnson, Dist. 17

*Conferees on the Part
of the House*

Rep. Tufts, Rock. 13

Rep. Robinson, Hills. 12

Rep. Walker, Rock. 17

Rep. Sanderson, Rock. 25

Senator Disnard moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON SB 262-FN-A

The committee of conference to which was referred Senate Bill 262-FN-A, An Act establishing a New Hampshire conservation corps and making an appropriation therefore having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House.

*Conferees on the Part
of the Senate*

Sen. White, Dist. 11

Sen. Podles, Dist. 16

Sen. St. Jean, Dist. 20

*Conferees on the Part
of the House*

Rep. Lewis, Merr. 5

Rep. Conroy, Rock. 7

Rep. McCann, Straf. 7

Rep. Matson, Ches. 7

Senator White moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON SB 304-FN

The committee of conference to which was referred Senate Bill 304-FN, An Act relative to the disposition of fines and forfeitures collected for violations of municipal ordinances, codes, and regulations having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend RSA 502:14, I(a) and (b) as inserted by section 1 of the bill by replacing them with the following:

(a) Seventy percent to the treasurer of the municipality prosecuting said violations, for the use of the municipality.

(b) Thirty percent to the commissioner of administrative services, or to such department or agency of the state as law provides.

Amend RSA 502-A:8, I(a) and (b) as inserted by section 2 of the bill by replacing them with the following:

(a) Seventy percent to the treasurer of the municipality prosecuting said violations, for the use of the municipality.

(b) Thirty percent to the commissioner of administrative services, or to such department or agency of the state as law provides.

Amend the bill by replacing section 7 with the following:

7 Appropriation; Supreme Court. In addition to any other sums appropriated to the judicial branch, the sum of \$105,929 is hereby appropriated to the supreme court for the biennium ending June 30,

1989, for the purpose of establishing new positions and for additional funding for increased hours of current positions. The supreme court shall distribute such sum to the district courts as follows:

District Court	Cost
Berlin	\$ 4,441
Concord	11,104
Conway	7,402
Derry	2,568
Lebanon	11,104
New London	2,368.50
Exeter	2,368.50
Newport	2,391
Plaistow	6,662
Plymouth	11,104
Auburn	4,441
Hampton	5,330
Hillsboro	2,961
Hooksett	4,441
Jaffrey/Peterborough	4,441
Merrimack	4,441
Ossipee	2,961
Portsmouth	6,518
Rochester	4,441
Salem	4,441
Total	\$105,929

The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

*Conferees on the Part
of the Senate*

Sen. Preston, Dist. 23
Sen. Bartlett, Dist. 19
Sen. Dupont, Dist. 6

*Conferees on the Part
of the House*

Rep. Gage, Rock. 13
Rep. Lown, Hills. 9
Rep. Sytek, Rock. 20
Rep. Matson, Ches. 7

Senator Preston moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON SB 279

The committee of conference to which was referred Senate Bill

279, An Act relative to motor vehicle emissions testing having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing section 6 with the following:

6 Motor Vehicle Emissions Inspection; Termination of Program. The motor vehicle emissions inspection program established under 1985, 403:1 shall be terminated on December 31, 1991, unless the legislature reauthorizes the program prior to that date.

*Conferees on the Part
of the Senate*

Sen. Preston, Dist. 23

Sen. Torr, Dist. 21

Sen. Hounsell, Dist. 2

*Conferees on the Part
of the House*

Rep. Gordon, Ches. 5

Rep. Greene, Rock. 18

Rep. Sytek, Rock. 20

Rep. Donovan, Hills. 26

Senator Preston moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON SB 302-FN

The committee of conference to which was referred Senate Bill 302-FN, An Act relative to fireworks having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing section 7 with the following:

7 Exceptions. Amend RSA 160-A:3, I and II to read as follows:

I. Any resident wholesaler, dealer, or jobber from selling at wholesale any fireworks, which [are] is not prohibited by this chapter.

II. The sale of any kind of fireworks, which are to be [shipped] transported directly out of this state within 24 hours of purchase.

*Conferees on the Part
of the Senate*

Sen. White, Dist. 11
Sen. Disnard, Dist. 8
Sen. Freese, Dist. 4

*Conferees on the Part
of the House*

Rep. Benton, Rock. 5
Rep. Welch, Rock. 10
Rep. Green, Hills. 36
Rep. Routhier, Hills. 47

Senator White moved to adopt the Committee of Conference report.

Adopted.

INTRODUCTION OF SENATE RESOLUTIONS

SR 8, relative to extension of mortgage revenue bonds. Ought to Pass. Senator Dupont for the committee.

Adopted.

SR 9, proclaiming world population awareness week 1988. Ought to Pass. Senator Dupont for the committee.

SENATOR HOUNSELL: I rise in strong opposition to this. The language, I think, is sufficient reason to speak against it but, since Senator McLane who is listed as a sponsor isn't in attendance, I don't think we should do it at this time.

Senator Hounsell moved to substitute indefinite postponement.

Adopted.

Recess

Out of Recess

COMMITTEE OF CONFERENCE REPORTS

COMMITTEE OF CONFERENCE REPORT ON HB 1088-FN-A

The committee of conference to which was referred House Bill 1088-FN-A, An Act establishing pilot child care provider recruitment and training programs, and making an appropriation therefor having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 3 with the following:

3 Appropriation. The sum of \$100,000 is appropriated to the division of human services for the biennium ending June 30, 1989, for the purpose of section 2 of this act. Notwithstanding any other provision of law, this appropriation shall be funded by a transfer of \$100,000 from PAU 01, 04, 04, 01 class 93, to the division of human services.

*Conferees on the Part
of the Senate*

Sen. Krasker, Dist. 24

Sen. White, Dist. 11

Sen. Podles, Dist. 16

*Conferees on the Part
of the House*

Rep. Bean, Graf. 13

Rep. Wallner, Merr. 18

Rep. Lovejoy, Rock. 7

Rep. Densmore, Graf. 3

Senator Krasker moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 1061-FN

The committee of conference to which was referred House Bill 1061-FN, An Act relative to retaining certain state-owned land overlooking Lake Winnisquam, having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House each pass the bill as passed by the House.

*Conferees on the Part
of the Senate*

Sen. Freese, Dist. 4

Sen. Heath, Dist. 3

Sen. Preston, Dist. 23

*Conferees on the Part
of the House*

Rep. Pearson, Belk. 5

Rep. Dexter, Belk. 8

Rep. Keans, Straf. 11

Rep. Levesque, Hills. 30

Senator Freese moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 1180-FN-A

The committee of conference to which was referred House Bill 1180-FN-A, An Act increasing the rate for residents of enhanced family care facilities and making an appropriation therefor, having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing sections 3 and 4 with the following:

3 Supplemental Appropriation. The sum of \$100,000 for the biennium ending June 30, 1989, is hereby appropriated to the division of mental health and developmental services, department of health and human services, for the purpose of increasing the rate according to severity of disability for residents of enhanced family care facilities established under RSA 126-A:39. This appropriation is in addition to any other funds appropriated to the division of mental health and developmental services. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

4 Effective Date. This act shall take effect July 1, 1988.

*Conferees on the Part
of the Senate*

Sen. Blaisdell, Dist. 10

Sen. Podles, Dist. 16

Sen. Delahunty, Dist. 22

*Conferees on the Part
of the House*

Rep. Sochalski, Rock. 23

Rep. Hager, Merr. 21

Rep. Densmore, Graf. 3

Rep. Frank, Hills. 13

Senator Blaisdell moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 990-FN-A

The committee of conference to which was referred House Bill 990-FN-A, An Act relative to the planning and design of a new facility for the Concord district court and making an appropriation therefor having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 3 with the following:

3 Funding for Planning and Design of New Concord District Court Facility. Notwithstanding the provisions of RSA 490:26-c requiring the approval of the New Hampshire court accreditation commission, the supreme court shall use funds from the escrow account for court facility improvements to plan and design a new facility for the Concord district court. Such facility shall be located on state or other publicly owned land.

*Conferees on the Part
of the Senate*

Sen. St. Jean, Dist. 20

Sen. Bartlett, Dist. 19

Sen. Dupont, Dist. 6

*Conferees on the Part
of the House*

Rep. Pearson, Belk. 5

Rep. Marsh, Coos. 1

Rep. Palumbo, Rock. 10

Rep. Kincaid, Straf. 7

Senator St. Jean moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON HB 594-FN

The committee of conference to which was referred House Bill 594-FN, An Act relative to county victim assistance programs and making an appropriation therefor, having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 Penalty Assessments Increased; Funding of Victims' Assistance Grants. RSA 188-F:31, I is repealed and reenacted to read as follows:

I. Every court shall levy a penalty assessment of \$2 or 10 percent, whichever is greater; on each fine or penalty imposed by the court for a criminal offense, including any fine or penalty for a violation of RSA title XXI or any municipal ordinance, except for a violation of a municipal ordinance relating to motor vehicles unlawfully left or parked. This penalty assessment shall be designated for the police standards and training council training fund. In addition, the court shall levy a 2 percent penalty assessment on each such fine or penalty which shall be designated for the victims' assistance fund. The total penalty assessment levied by the court under this paragraph shall be 12 percent.

2 Funding of Victims' Assistance Grants. RSA 188-F:31, IV is repealed as reenacted to read as follows:

IV. The clerk of each court shall collect all penalty assessments and shall transmit the amount collected under paragraph I designated for the police standards and training council training fund to the police standards and training council. The council shall pay over all moneys collected by it under this chapter to the state treasurer for deposit in the police standards and training council training fund. The clerk shall transmit the remaining amount collected under paragraph I to the state treasurer for deposit in the victims' assistance fund.

3 New Subparagraph; Victims' Assistance Fund. Amend RSA 6:12, I by inserting after subparagraph (y) the following new subparagraph:

(z) The assessments collected under RSA 188-F:31, for the victims' assistance fund shall be credited to the victims' assistance fund, until that fund exceeds \$300,000, at which time moneys in excess of \$300,000 shall revert to the general fund.

4 New Section; Administration of Victims' Assistance Fund. Amend RSA 21-M by inserting after section 8-b the following new section:

21-M:8-c Administration of Victims' Assistance Fund.

I. Subject to the availability of money in the victims' assistance fund, the attorney general shall make grants from the victims' as-

sistance fund, for the establishment and maintenance of victim assistance programs. The attorney general may, in awarding funds under this section, give preference to those counties not already served by a victim assistance program.

II. A victim assistance program is eligible to receive grants under this section if such program:

(a) is within the office of a county attorney; or

(b) is operated by a public agency or a private nonprofit organization or a combination of such agencies or organizations and provides services to victims of crime, and

(1) demonstrates a record of providing effective services to victims of crime and financial support from sources other than the fund; or

(2) substantial financial support from sources other than the fund.

III. A victim assistance program shall expend sums received under this section only for providing services to victims of crime.

5 Effective Date. This act shall take effect January 1, 1989.

*Conferees on the Part
of the Senate*

Sen. Podles, Dist. 16

Sen. Dupont, Dist. 6

Sen. Blaisdell, Dist. 10

*Conferees on the Part
of the House*

Rep. Robinson, Straf. 4

Rep. Martling, Straf. 4

Rep. Townsend, Graf. 13

Rep. Lussier, Straf. 8

Senator Blaisdell moved to adopt the Committee of Conference report.

Adopted.

HOUSE MESSAGE

HOUSE ADOPTS COMMITTEE OF CONFERENCE REPORTS

HB 606-FN, relative to lock-up of children.

HB 832, establishing a 10-year bridge construction and reconstruction plan.

HB 852, relative to New Hampshire hospital personnel.

HB 858-FN, relative to fetal alcohol syndrome.

HB 862-FN, relative to solid waste disposal and source reduction.

HB 873, changing the title of "safety inspectors" to "highway enforcement officers" in the department of safety and providing for independent inspectors for carnival and amusement rides.

HB 881-FN, relative to weights and measures.

HB 897, relative to annual reports of county officers.

HB 912, relative to rules in manufactured housing parks and warranties for presite built and prefabricated housing.

HB 932, establishing a New Hampshire film and television bureau.

HB 935, relative to recording plats.

HB 948, allowing a village district to be established for the purposes of transportation of people in the village district.

HB 962, relative to the study and design of a ski lodge at Mount Sunapee and making an appropriation therefor.

HB 972, relative to annulments of drug convictions and permitting the director of motor vehicles to review revocation of licenses of habitual offenders for possible restoration under certain conditions.

HB 12, recodifying the workers' compensation law.

HB 401, relative to video tape depositions.

HB 734, relative to posting of bond by administrators of estates.

HB 758, establishing a committee to study the juvenile justice system and juvenile delinquency, and relative to the age of criminal responsibility.

HB 763, prohibiting the operation of wet bikes on Arlington Mill Reservoir in the town of Salem.

HB 821, legalizing certain town meetings and hearings.

HB 824, relative to AREA school district agreements.

HB 847, relative to indigent defense and making an appropriation therefor.

ENROLLED BILLS AMENDMENT

SB 322-FN-A, relative to petroleum pollution cleanup.

SENATOR HEATH: This enrolled bill amendment corrects an error in the numbering of sections of the bill.

Amend the bill by renumbering sections 3-12 to read as 2,3,4,5,6,7,8,9,10,11, respectively.

Amend paragraph I of section 11 of the bill by replacing it with the following:

I. Paragraphs VIII and IX of section 9 of this act shall take effect January 1, 1994.

Adopted.

HB 1133-FN, relative to home rule and municipal charters.

SENATOR HEATH: This amendment corrects a typographical error and removes an incorrect cross reference.

Amend line 3 of page 2 of the bill by replacing it with the following:
general laws or the constitution of this state.

Amend line 14 of page 9 of the bill by replacing it with the following:
state under RSA 49-B:5-a may seek review by way of appeal

Adopted.

HOUSE MESSAGE

HOUSE REQUEST A COMMITTEE OF CONFERENCE

HB 1097, relative to underground storage tanks.

The Speaker appointed Reps. Dickenson, McCann, Spear and Schwartz.

SUSPENSION OF RULES

Senator Heath moved that the Senate suspend the Joint Rules as to allow a request for a committee of conference on HB 1097 received after the deadline.

Adopted.

Senator Heath moved to accede to the House request for a committee of conference.

Adopted.

The President appointed Senators Heath, Hounsell and Preston.

Senator Dupont moved that the Senate suspend the Joint Rules as to the printing of the report.

Adopted.

COMMITTEE OF CONFERENCE REPORT

COMMITTEE OF CONFERENCE REPORT ON HB 1097-FN

The committee of conference to which was referred House Bill 1097-FN, An Act relative to underground storage tanks having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after section 17 with the following:

18 Water Supply System; Town of Meredith; Matching State Funds.

I. The department of environmental services, with the prior approval of the governor and council, is authorized to provide a matching grant to the town of Meredith to fund a project which will provide a continuing source of potable water to the contaminated geographic area. Said grant shall be on an equal matching basis and the total project cost that is subject to match shall not exceed \$400,000.

II. The department of environmental services is authorized to expend an amount up to \$200,000 from the oil pollution control fund established under RSA 146-A:11-a for the purpose of providing the state match. Said matching funds shall not be made available to the town of Meredith until the project is completed and final approval is received from the department of environmental services. A grant agreement shall be prepared for execution by the office of the attorney general and shall be subject to the final approval of the governor and council.

III. Recoveries made under the provisions of RSA 146-C:11 which are related to this project, shall be deposited in the fund established under RSA 146-A:11.

19 New Subparagraph; Registration of Underground Storage Facilities. Amend RSA 146-C:3, I by inserting after subparagraph (d) the following new subparagraph:

(e) Demonstration of financial responsibility pursuant to rules adopted under RSA 146-C:9, VII.

20 New Paragraph; New Facilities. Amend RSA 146-C:7 by inserting after paragraph II the following new paragraph:

III. An owner shall demonstrate financial responsibility pursuant to rules adopted under RSA 146-C:9, VII.

21 Contingent Provision. If SB 322 of the 1988 regular session becomes law, sections 19 and 20 of this act shall not take effect, and sections 5 and 10 of this act shall take effect 60 days after its passage. If SB 322 does not become law, sections 5 and 10 of this act shall not take effect, and sections 19 and 20 of this act shall take effect 60 days after its passage.

22 Effective Date.

I. Section 18 of this act shall take effect upon its passage.

II. Sections 5, 10, 19, and 20 of this act shall take effect as provided in section 21 of this act.

III. The remainder of this act shall take effect 60 days after its passage.

*Conferees on the Part
of the Senate*

Sen. Heath, Dist. 3

Sen. Hounsell, Dist. 2

Sen. Preston, Dist. 23

*Conferees on the Part
of the House*

Rep. Dickinson, Carr. 2

Rep. McCann, Straf. 7

Rep. Spear, Straf. 2

Rep. Schwartz, Ches. 13

Senator Heath moved to adopt the Committee of Conference report.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON SB 334-FN-A

The committee of conference to which was referred Senate Bill 334-FN-A, An Act establishing a comprehensive literacy and drop-out prevention program, and making an appropriation therefor having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 Statement of Policy.

I. The state of New Hampshire is committed to the development and maintenance of an educated and productive citizenry. To ensure this commitment, all persons should have an equal opportunity to acquire literacy, including basic reading, writing, speaking, listening, reasoning, and mathematics skills. The opportunity to access and acquire these skills should be provided through a variety of educational programs and methods to meet the different needs and abilities of children and youth. Special effort should be made to accommodate the literacy requirements of atypical or handicapped learners, and preventative measures should be taken to assure that students do not drop out of school.

II. Important to success in literacy training is that the student be alert and healthy during the instructional period. The state of New Hampshire recognizes that the ability of high school students to complete homework and remain alert throughout the school day is potentially affected by the number of hours students work at extra-curricular activities, jobs, or sports. This relationship must be studied and assessed so that appropriate legislation can be crafted in the next legislative session.

2 New Subparagraph; Rulemaking. Amend RSA 21-N:9, II by inserting after subparagraph (u) the following new subparagraph:

(v) Administering the literacy education and dropout prevention program established in RSA 189:52-58.

3 New Subdivision; Literacy Instruction and Dropout Prevention. Amend RSA 189 by inserting after section 51 the following new subdivision:

Literacy Instruction and Dropout Prevention

189:52 Screening of Students. All school districts that provide elementary or secondary instruction are required to diagnostically screen to the extent of state funding all children upon their first entry to the school graded structure at kindergarten, first grade, or a higher grade level, unless previously diagnostically screened, to determine their levels of educational readiness. Diagnostic screening is a useful tool in the development of programs for instruction in the literacy skills of reading, writing, speaking, listening, reasoning, and mathematics.

189:53 Literacy Skill Development in Elementary Grades. All school districts which provide elementary education shall have instruction in literacy for all students through grade 3, including instruction in reading, writing, speaking, listening, reasoning, and mathematics. All instruction shall be designed to assist students to

achieve literacy and to provide the opportunity for each child to learn according to his needs and his abilities as set forth by the state board of education in the minimum standards for New Hampshire public elementary schools.

189:54 Literacy Instruction.

I. For purposes of this subdivision, an educationally disadvantaged child is one whose educational achievements are significantly less than his anticipated performance in reading, writing, speaking, listening, reasoning, and mathematics. The commissioner of education shall annually designate the state-wide level of supplemental services based upon criteria related to performance levels in reading, writing, speaking, listening, reasoning, and mathematics.

II. In order to be eligible to leave school voluntarily at age 16 or 17, a student shall demonstrate a minimum level of competency as determined by his local school board, commensurate with criteria selected by the local school board from guidelines established by the state board of education. In establishing these guidelines, the state board of education may give appropriate consideration to specific local needs and differences as presented by the local school board. The local school board shall establish procedures to determine whether a student has achieved the minimum competency level prior to his sixteenth birthday.

III. All school districts shall, to the extent of state funding, provide supplementary literacy instruction for students through grade 12. Services shall be provided first to those who are determined to be most educationally disadvantaged. Services shall focus on instruction in reading, writing, speaking, listening, reasoning, and mathematics. Program emphasis shall include in:

(a) Primary grades, intensive development of literacy skills, based upon the individual child's literacy knowledge.

(b) Grades 4-8, remediation in literacy, accomplished through small group instruction and individualized remediation.

(c) Grades 9-12, intensive remediation in literacy, accomplished through prescriptive remediation in small group or individualized setting.

IV. The costs for intensive literacy development in kindergarten through grade 3 for districts with kindergarten, and first grade through grade 3 for districts without kindergarten, and remediation in grades 4-12 shall be funded by the department of education to the extent of state funding. The department of education shall allocate funds among school districts based upon program plans submitted annually by the local school districts to the department of education, pursuant to paragraph VI of this section.

V. Programs for supplementary literacy instruction for students in primary through twelfth grades shall meet the following criteria, and shall be included in an annual plan submitted to, and subject to the approval of, the department of education:

(a) Services shall be based on an annual assessment of need.

(b) Programs shall have performance objectives evaluated annually.

(c) Plans shall provide detail on the types of supplementary services they may require.

Programs shall be provided technical assistance and monitoring by the department of education to the extent possible. School districts shall maintain records on the above criteria and allow access to records by the department of education.

VI. Funds allocated for this program shall be used to supplement, not replace, existing instructional activities.

VII. A person aggrieved by a determination made pursuant to this subdivision may appeal in order to demonstrate hardship or extenuating circumstances. Such appeals shall be handled in an expeditious manner through the administrative process ordinarily used by a local school district to resolve controversies between individuals and the local educational agency.

189:55 Dropout Prevention.

I. The department of education shall underwrite the costs of selected school district programs or services that address the academic, social, or personal needs of potential school dropouts. Proposals shall be funded through the office of dropout prevention.

II. Project proposals shall be selected and funds allocated through the office of dropout prevention at the discretion of the commissioner of education. These funds shall supplement, not replace, local, state or federal program funds expended for these purposes.

189:56 Advisory Council on Literacy and Dropout Prevention. There is established a state advisory council on literacy, dropout prevention, and youth employment. The council shall be composed of 11 members, 4 of whom shall be appointed by the governor; one of whom shall be a member of the house of representatives, appointed by the speaker; and one of whom shall be a member of the senate, appointed by the president of the senate. The members shall have demonstrated an interest or expertise in programs for literacy, dropout prevention and youth employment. The non-legislative membership shall include:

I. One teacher, appointed by the American Federation of Teachers;

II. One teacher, appointed by the National Education Association-New Hampshire;

III. One school board member, appointed by the New Hampshire School Board Association;

IV. One superintendent, appointed by the New Hampshire School Administrators' Association;

V. One principal, appointed by the New Hampshire School Principals' Association;

VI. One parent, appointed by the governor;

VII. One representative from labor, appointed by the governor;

VIII. One representative from business and industry appointed by the governor; and

IX. One member at large, appointed by the governor.

Members of the council shall be residents of this state and shall serve without compensation for 2-year terms. Any vacancy shall be filled for the unexpired term in the same manner as the original appointment. The function of the advisory council is to advise the governor, the general court, state board of education, and the commissioners of education and labor on matters pertaining to literacy, dropout prevention, and youth labor and employment. The advisory committee shall develop and submit a biennial report on literacy, dropout prevention, and youth employment to the governor, the president of the senate, the speaker of the house, the state board of education, the department of labor, and the commissioners of education and labor. The department of education shall provide administrative support for the council. The council members shall choose a chairman from among them at the first meeting of the council, which shall be held within 60 days of the effective date of this section and shall be called by the senate member of the committee.

189:57 Coordination with Special Population Programs. Educational and youth employment programs serving special population students shall be coordinated with the requirements of this subdivision. All such coordinating efforts shall not exempt participating school districts or public or private employers from meeting all requirements of state or federal laws.

189:58 Rulemaking. The state board of education shall adopt rules, pursuant to RSA 541-A, relative to the procedures and guidelines necessary to effect the purposes of this subdivision.

4 Appropriation.

I. The sum of \$50,000 is appropriated to the department of education for the biennium ending June 30, 1989, for the purpose of initiating the screening program established in RSA 189:52. Support for screening shall be based upon a sum equal to projected population to be screened, multiplied by no less than \$15. This appropria-

tion shall be nonlapsing. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

II. The sum of \$250,000 is appropriated to the department of education for the biennium ending June 30, 1989, for the purpose of funding the dropout prevention programs referred to in RSA 189:55. This appropriation shall be nonlapsing. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

5 Committee Established; Duties. There is established a legislative study committee to examine the problems of illiteracy and dropout prevention. The duties of the committee shall be:

I. To study the use of driver's license eligibility as well as other devices to encourage literacy.

II. Assemble statewide data on dropouts, including:

(a) the number of dropouts in New Hampshire;

(b) the reasons given for dropping out;

(c) programs that have proven successful in treating the dropout problem.

III. To study and assess the relationship between the number of hours per week that a student works or participates in sports, and that student's academic achievement.

IV. Any other issues the committee deems germane to the purposes of this act.

6 Membership. The membership of the committee shall be:

I. Four members from the house of representatives, appointed by the speaker of the house. One of these shall be a member of the house labor, industrial and rehabilitative services committee.

II. Four members from the senate, appointed by the president of the senate. One of these shall be a member of the senate insurance committee.

7 Meetings; Chair. The first meeting of the committee shall be called by the first-named senator appointed to the committee, and shall be held no later than May 15, 1988. The chair of the committee shall be chosen by the members at the first meeting.

8 Report. The committee shall make a report of its findings and recommendations, including any proposed legislation, to the speaker of the house, the president of the senate, and the governor, before November 1, 1988.

9 Youth Employment; Hours of Work. Amend RSA 276-A:4 by inserting after paragraph V the following new paragraph:

VI. No youth 16 or 17 years of age who is duly enrolled in school shall be employed or permitted to work more than 36 hours during the school week.

10 Effective Date.

I. RSA 189:55, 189:56, and 189:58, as inserted by section 3 of this act, and section 4 of this act shall take effect 60 days after its passage.

II. Sections 5-9 of this act shall take effect upon its passage.

III. The remainder of this act shall take effect July 1, 1989.

*Conferees on the Part
of the Senate*

Sen. Disnard, Dist. 8

Sen. Hough, Dist. 5

Sen. Bond, Dist. 1

*Conferees on the Part
of the House*

Rep. Palumbo, Rock. 10

Rep. Keefe, Hills. 31

Rep. Robinson, Hills. 12

Rep. Lachance, Straf. 3

Senator Disnard moved to adopt the Committee of Conference report.

SENATOR DUPONT: Senator Disnard, is this the literacy bill?

SENATOR DISNARD: This is the literacy bill that your boss approved.

Adopted.

COMMITTEE OF CONFERENCE REPORT ON SB 345-FN

The committee of conference to which was referred Senate Bill 345-FN, An Act relative to disciplinary proceedings conducted by the committee on judicial conduct having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and

That the House recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 490:30 as inserted by section 1 of the bill by replacing it with the following:

490:30 Committee on Judicial Conduct.

I. The committee on judicial conduct, established by rule of the supreme court, shall make available to the public a copy of the complaint, the committee's findings thereon, the transcript of any hear-

ing, and a report of disciplinary actions taken with regard to the complaint; provided that the committee finds that the complaint was justified and that the person who is the subject of the complaint committed a violation of the Code of Judicial Conduct.

II. The provisions of paragraph I shall apply only after the review process of the complaint is completed. If the committee on judicial conduct issues a private reprimand or other informal adjustment with respect to the person who is the subject of the complaint, then the provisions of paragraph I shall not apply, unless the person who is the subject of the complaint shall have thereby received a total of 3 or more private reprimands or other informal adjustments during the 4 years preceding the filing of the most recent complaint. All private reprimands and other informal adjustments shall be reduced to a writing.

III. If the complaint referred to the committee on judicial conduct alleges conduct that would constitute a crime, the committee chairman shall immediately refer the matter to the attorney general. The referral of such a complaint to the attorney general shall not supercede the committee's jurisdiction relative to whether a violation of the Code of Judicial Conduct has occurred. However, the committee shall suspend its activities until the criminal proceedings, if any, are concluded.

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect upon its passage.

*Conferees on the Part
of the Senate*

Sen. Bartlett, Dist. 19

Sen. Dupont, Dist. 6

Sen. Blaisdell, Dist. 10

*Conferees on the Part
of the House*

Rep. Hager, Merr. 21

Rep. Koromilas, Straf. 6

Rep. Palumbo, Rock. 10

Rep. LaMar, Ches. 16

Senator Dupont moved to adopt the Committee of Conference report.

Adopted.

HOUSE MESSAGE

HOUSE ADOPTS COMMITTEE OF CONFERENCE REPORTS

SB 334, establishing a comprehensive literacy and dropout prevention program, and making an appropriation therefor.

SB 345-FN, relative to disciplinary proceedings conducted by the committee on judicial conduct.

SB 349-FN-A, to provide 2 additional field staff and additional equipment to the division of air resources for statewide air quality monitoring and making an appropriation therefor.

SB 347, increasing rates for shared homes and making an appropriation therefor.

SB 326, establishing a New Hampshire rivers management and protection program and making an appropriation therefor.

SB 261, relative to setting seasons and bag limits on small game birds and animals.

SB 355, appropriating additional sweepstakes revenues for foundation aid.

SB 323, relative to providing medical assistance to children who are disabled or victims of catastrophic illness.

SB 317-FN, relative to master plans and their housing sections.

SB 315, relative to the personnel appeals board.

SB 310-FN-A, relative to the purchase and distribution of breath analyzer machines and making an appropriation therefor.

SB 306, relative to low dose mammography screening.

SB 305, relative to pari-mutuel pools at dog races.

SB 301, relative to the deadline for an environmental impact study for a 4-lane east-west highway from Concord to the Spaulding turnpike.

SB 289, authorizing the hiring of a consultant to study the effectiveness of the foundation aid formula.

SB 262-FN-A, establishing a New Hampshire conservation corps and making an appropriation therefor.

SB 304, relative to the disposition of fines and forfeitures collected for violations of municipal ordinances, codes, and regulations.

SB 279, relative to motor vehicle emissions testing.

SB 302-FN, relative to fireworks.

HB 594, relative to county victims assistance programs and making an appropriation therefor.

HB 237, limiting the civil liability of volunteers working on behalf of nonprofit organizations; establishing a special insurance compensation fund and a process to compensate persons with claims against volunteers.

HB 794, making capital appropriations and supplemental capital appropriations.

HB 917, making technical changes for the department of revenue administration and relative to the taxation of transferable shares under the interest and dividends tax.

HB 978, legalizing certain town meetings and zoning board of adjustment proceedings.

HB 980, relative to penalties for sewage treatment violations.

HB 1081, naming a part of route 111 in the town of Windham the Waterhouse Memorial Road.

HB 1093, relative to reporting requirements of corporations having securities registered in this state.

HB 1109, relative to the purchase of the Cheshire bridge in the town of Charlestown and making an appropriation therefor.

HB 1129, relative to obtaining supplemental appropriations.

HB 625, relative to fees for boats and boat registration, and making certain appropriations.

HB 990, relative to the planning and design of a new facility for the Concord district court and making an appropriation therefor.

HB 1061, relative to retaining certain state-owned land overlooking Lake Winnisquam.

HB 1088, establishing pilot child care provider recruitment and training programs, and making an appropriation therefor.

HB 1137, relative to the reports required by and the setting of tax rates for municipalities, counties and school districts.

HB 1144, relative to civil penalties for violations by public utilities.

HB 1146, relative to abandoned property and making an appropriation to the state treasurer for purchase of a computer.

HB 1150, permitting the attorney general to hire part-time attorneys general.

HB 1159-FN, relative to the southeast regional refuse disposal district.

HB 1162, relative to AIDS education pervention and control and making an appropriation therefor and relative to testing for the AIDS virus for insurance purposes.

HB 1171, relative to boating restrictions on White Pond and Duncan Lake in the town of Ossipee and prohibiting ski craft on Dublin Lake in the town of Dublin.

HB 1204, establishing a grant-in-aid program to be administered by the division of mental health and developmental services, department of health and human services, to provide temporary emergency shelter for the destitute and making an appropriation therefor, and establishing the affordable housing fund within the New Hampshire housing finance authority and making an appropriation therefor.

HOUSE CONCURS

SB 357, relative to legalizing the Seabrook town meeting and establishing the Seabrook Scholarship Fund.

ENROLLED BILLS AMENDMENT

HB 810-FN, relative to overseas voters.

SENATOR CHANDLER: This amendment incorporates an amendment to RSA 654:23 made earlier this session by HB 731, which became chapter 73, and inserts amending language. It also corrects boldface type and brackets in section 10.

Amend the bill by replacing lines 6-9 on page 4 with the following:

be entitled to vote by overseas citizens absentee ballot at both federal primary and general elections. If the supervisors decide not to add the name of the applicant to the checklist, they shall send notification to the applicant in writing within 7 days stating the reason for that denial.

Amend the bill by replacing line 8 on page 7 with the following:

8 Reference to Federal Post Card Application Form Added. Amend RSA 657:12 to read as follows:

Amend the bill by replacing lines 1-8 on page 8 with the following:

the secretary of state, the federal [government] post card application, or a written statement containing the information required by RSA 657:4, [or the federal application form,] a town or city clerk shall send the materials provided for in RSA 657:8 or 657:9, as applicable, regardless of whether the applicant appears on the checklist. Whenever an armed services voter requests a state general election [absentee] ballot prior to October 1 to be mailed to an address in Canada or Mexico or in any other country outside of the continental United States [or Canada], he shall be sent the same ballot as provided in RSA 656:34.

Adopted.

HB 885, relative to establishing a boat safety fund; and requiring a boat safety course or administrative fine for offenses while boating.

SENATOR CHANDLER: This amendment is necessary to renumber an RSA provision inserted by this bill to avoid duplicating the numbering of RSA provisions already inserted earlier this session by HB 968 and HB 1091, which became chapters 17 and 105, respectively.

Amend the bill by replacing lines 10 and 11 on page 2 with the following:

inserting after subparagraph (y) the following new subparagraph:
(z) Money received under RSA 270:46-a, which shall be credited to

Adopted.

HB 753, reinstating the charter of Bethlehem Mink Farm, Inc. and the charter of James A. Smith Contracting, Inc.; and relative to revival of charters of dissolved nonprofit organizations.

SENATOR CHANDLER: This amendment is necessary to eliminate a duplicative amendment to RSA 292:30, II already amended by HB 1063-FN, which was enacted earlier this session as chapter 93. The amendment also amends the title to delete references to the eliminated text.

Amend the title of the bill by replacing it with the following:

AN ACT

reinstating the charter of Bethlehem Mink Farm, Inc.
and the charter of James A. Smith Contracting, Inc.

Amend the bill by deleting section 3 and renumbering the original section 4 to read as3.

Adopted.

HB 775, to revive the charter of the Fuller Foundation of New Hampshire, Inc., a nonprofit organization; and relative to revival of charters of dissolved nonprofit organizations.

SENATOR CHANDLER: This amendment is necessary to eliminate a duplicative amendment to RSA 292:30, II already amended by HB 1063-FN, which was enacted earlier this session as chapter 93. The amendment also amends the title to delete references to the eliminated text.

Amend the title of the bill by replacing it with the following:

AN ACT

to revive the charter of the Fuller Foundation of New
Hampshire, Inc., a nonprofit organization.

Amend the bill by deleting section 2 and renumbering the original section 3 to read as2.

Adopted.

HB 1188-FN, establishing age limits for operators of off highway recreational vehicles and amending compliance dates for manufacturers of all terrain vehicles

SENATOR CHANDLER: This amendment is necessary to renumber an RSA provision to avoid duplicating the numbering of an RSA provision already inserted by SB 260 of the 1988 session, which became chapter 118. The amendment also inserts a contingency provision to nullify an amendment identical to an amendment in HB 803, if HB 803 becomes law.

Amend the bill by replacing lines 11 and 12 on page 7 with the following:

by inserting after paragraph X the following new paragraph:

XI. Consult with and assist the executive director, department of

Amend the bill by replacing lines 17-20 on page 7 with the following:

11 Contingency. If HB 803 of the 1988 regular session becomes law, section 4 of this act shall not take effect.

12 Effective Date.

I. Section 10 of this act shall take effect March 1, 1989.

II. The remainder of this act shall take effect 60 days after its passage.

Adopted.

HB 784 relative to disclosure of securities takeovers.

SENATOR CHANDLER: This amendment is necessary to eliminate duplicative amendments to RSA 421-A already amended by HB 781, which was enacted earlier this session as Chapter 62.

Amend the bill by replacing lines 1-17 on page 2 with the following:

2 Effective Date. This act shall take effect 60 days after its passage.

Adopted.

HB 940, relative to child support enforcement and paternity.

SENATOR CHANDLER: This amendment inserts missing amending language in section 2 of the bill.

Amend the bill by replacing line 11 on page 1 with the following:

2 Interest Rate on Support Debt. Amend RSA 161-C:23 to read as follows:

Adopted.

SB 294-FN, relative to the catastrophic aid formula.

SENATOR CHANDLER: This amendment deletes an unnecessary section of the bill, corrects a typographical error, and renumbers sections.

Amend the bill by replacing lines 1-5 on page 1 with the following:

1 Formula Changed. Amend RSA 186-C:18, III to read as follows:

Amend the bill by replacing line 2 on page 3 with the following:

such emergency assistance purposes, the funds shall be used to assist school

Amend the bill by replacing line 5 on page 3 with the following:

2 New Paragraph; Study of Catastrophic Aid Formula. Amend 1987, 264:1

Amend the bill by replacing lines 12-14 on page 3 with the following:

3 Effective Date.

I. Section 1 of this act shall take effect July 1, 1988.

II. The remainder of this act shall take effect upon its passage.

Adopted.

ENROLLED BILLS REPORT

HB 353, relative to municipalities acquiring certain housing projects.

HB 627, to provide a loss carry forward under the business profits tax and relative to partnership and proprietorship deduction for compensation..

HB 674, relative to accidental disability benefits for New Hampshire retirement system members and to retirement benefits for certain legislative and constitutional officers.

HB 740, establishing standards for marital mediators and relative to voluntary marital mediation in divorce proceedings.

HB 756, prohibiting interference with police dogs or horses.

HB 818, relative to the taking of trout.

HB 819, relative to the setting of black bear seasons and emergency closing of seasons.

HB 820, relative to the hunter education program and bow and arrow licenses.

HB 850, exempting motor vehicles carrying washed sand, screened loam and crushed stone from obtaining a cargo insurance policy or indemnity bond and relative to mineral extraction.

HB 1021, relative to the treatment and care of alcohol abusers, substance abusers, and alcohol and substance abusers.

HB 1080, relative to nongame species and making a continuing appropriation therefor.

HB 1092, amending the 10-year highway plan.

HB 1112, relative to the Head Start program and making an appropriation therefor.

HB 1128, establishing child support guidelines, and establishing a committee to study child support issues.

HB 1147, prohibiting persons who have been convicted of child pornography, felonious physical assault on a minor, or any sexual assault, from engaging in activities relating to the care of children.

HB 1154, permitting the Waterville Estates village district to exceed its debt limitation.

SB 342, amending the certificate of need law.

HB 964, granting law enforcement officials and certain employees of the department of health and human services the right to enter, without the consent of parent or guardian, public places to interview children who may be abused or neglected.

HB 1103, relative to state-owned surplus real estate to be used to establish affordable housing for low and moderate income persons.

HB 1158, relative to extension of the authority of the division of water supply and pollution control relative to safe drinking water.

SB 322, relative to petroleum pollution cleanup.

SB 265, relative to the operation of a bank acquired in a consolidation and to banking department fees and requirements.

SB 291, relative to refunds of insurance premiums.

HB 748, relative to the division of historical resources, creating the position of state curator, and making an appropriation therefor.

HB 765, relative to printing of "New Hampshire Historical Markers", and making an appropriation therefor, and relative to a memorial for Governor Sherman Adams.

HB 814, relative to fines imposed by and the staff of the pharmacy board, and relative to making an appropriation to the pharmacy board.

HB 863, relative to an intrastate computer system within the division of state police to record outstanding arrest warrants for misdemeanors, establishing a police communications specialist position within the division of state police, and making an appropriation therefor.

HB 942, relative to treatment by physical therapy.

ENROLLED BILLS AMENDMENTS

HB 803, relative to snowmobile operation and changing compliance dates for ATV manufacturers.

SENATOR CHANDLER: This amendment changes the title of the bill to more accurately reflect its content.

Amend the title of the bill by replacing it with the following:

AN ACT relative to OHRV operation and changing compliance dates for ATV manufacturers.

Adopted.

HB 842, granting county commissioners planning and zoning authority in unincorporated and unorganized places.

SENATOR CHANDLER: The committee of conference added a legislative study committee to the bill which was not reflected in the title.

Amend the title of the bill by replacing it with the following:

AN ACT granting county commissioners planning and zoning authority in unincorporated and unorganized places and establishing a legislative study committee relative to these places.

Adopted.

HB 639-FN, relative to certification of soil scientists and establishing a board of natural scientists.

SENATOR CHANDLER: This amendment corrects an error in numbering the sections of the bill.

Amend the bill by replacing line 10 on page 15 with the following:

5 Prohibition Effective. No prohibition established under this act,
Amend the bill by replacing line 14 on page 15 with the following:

6 Effective Date. This act shall take effect June 30, 1988.

Adopted.

HB 876, relative to restricting waterskiing in certain coves on Squam Lake and making a supplemental appropriation to the University of New Hampshire.

SENATOR CHANDLER: This amendment inserts a contingency provision into the bill which will renumber an RSA section, whether or not SB 258 of this session becomes law.

Amend the bill by replacing section 3 with the following:

3 Contingent Provision. If SB 258 of the 1988 regular session becomes law, RSA 486:33 as inserted by section 1 of this act shall be renumbered as RSA 486:36. If SB 258 does not become law, RSA 486:33 as inserted by section 1 of this act shall be renumbered as RSA 486:35.

4 Effective Date.

I. Sections 1 and 3 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect upon its passage.

Adopted.

HB 594-FN, relative to victims' assistance and establishing a victims' assistance fund.

SENATOR CHANDLER: This amendment is necessary to contingently renumber certain RSA provisions inserted by this bill, to avoid duplication of numbers of sections inserted by HB 885 and SB 331.

The amendment also makes a grammatical correction.

Amend the bill by replacing lines 11 and 12 on page 3 with the following:

(2) receives substantial financial support from sources other than the fund.

Amend the bill by replacing line 15 on page 3 with the following:

5 Contingent Provisions.

I. If HB 885 of the 1988 regular session becomes law, RSA 6:12, I(2) as inserted by section 3 of this act shall be redesignated as RSA 6:12, I(aa).

II. If SB 331 of the 1988 regular session becomes law, RSA 21-M:8-c as inserted by section 4 of this act shall be redesignated as RSA 21-M:8-e.

6 Effective Date. This act shall take effect January 1, 1989.

Adopted.

HB 972, relative to annulments of drug convictions and convictions which may be counted toward habitual offender status, and permitting the director of motor vehicles to review revocation of licenses of habitual offenders for possible restoration under certain conditions.

SENATOR CHANDLER: This amendment inserts a new version of an RSA provision which combines the changes made by HB 480 passed earlier this session, which became chapter 89.

Amend the bill by replacing lines 9-11 on page 4 with the following:

7 Operating After Habitual Offender Order; Combining HB 480 Changes. Amend RSA 262:23, I to read as follows:

I. It shall be unlawful for any person to drive any motor vehicle on the ways of this state while an order of the director or the court prohibiting such driving remains in effect. If any person found to be an habitual offender under the provisions of this chapter is convicted of driving a motor vehicle on the ways of this state while an order of the director or the court prohibiting such operation is in effect, he shall be sentenced, notwithstanding the provisions of RSA title LXII, to imprisonment for not less than one year nor more than 5 years. No portion of the minimum mandatory sentence shall be suspended, and no case brought to enforce this chapter shall be continued for sentencing; provided, however, that any sentence or part thereof imposed pursuant to this section may be suspended in cases in which the driving of a motor vehicle was necessitated by situations of apparent extreme emergency which required such operation to save life or limb. Any sentence of one year or less imposed pursuant to this paragraph shall be served in [the] a county [house of correction] correctional facility. Any sentence of more than one year imposed pursuant to this paragraph shall be served in the state prison.

8 Provision Nullified. 1988, 89:21 shall not take effect.

9 Effective Date.

I. Sections 5 and 6 of this act shall take effect January 1, 1989.

II. Section 7 of this act shall take effect June 17, 1988.

III. The remainder of this act shall take effect upon its passage.

Adopted.

HB 847-FN-A, relative to indigent defense and making an appropriation therefor.

SENATOR CHANDLER: This title amendment is necessary because the appropriation was deleted from the bill by the committee of conference.

Amend the title of the bill by replacing it with the following:

AN ACT relative to indigent defense.

Adopted.

HB 962-FN-A, relative to the study and design of a ski lodge at Mount Sunapee and making an appropriation therefor, and relative to certain major capitol projects and water pollution control revolving loan fund.

SENATOR CHANDLER: This amendment to the title of the bill is necessary to incorporate changes made by the committee of conference.

Amend the title of the bill by replacing it with the following:

AN ACT relative to a ski lodge and improvements at Mount Sunapee and making an appropriation therefor, and relative to certain major capital projects and the water pollution control revolving loan fund.

Adopted.

HB 763, relative to the operation of ski craft on the lakes, ponds, and rivers of the state.

SENATOR CHANDLER: This enrolled bill amendment corrects a transcription error in the bill.

Amend the bill by replacing line 3 on page 5 with the following:

XII. Big Squam Lake in the towns of Sandwich, Moultonborough, Centre Harbor, and Holderness.

Adopted.

HB 1171, relative to boating restrictions on White Pond and Duncan Lake in the town of Ossipee.

SENATOR CHANDLER: This amendment inserts a contingency provision into the bill which will renumber an RSA section, whether either, both, or neither SB 258 or HB 876 of this session becomes law.

Amend the bill by replacing section 2 with the following:

2 Contingent Provision.

I. If both SB 258 and HB 876 of the 1988 regular session become law, RSA 486:34 as inserted by section 1 of this act shall be renumbered as RSA 486:37.

II. If either SB 258 or HB 876 do not become law, RSA 486:34 as inserted by section 1 of this act shall be renumbered as RSA 486:36.

III. If neither SB 258 nor HB 876 become law, RSA 486:34 as inserted by section 1 of this act shall be renumbered as RSA 486:35.

3 Effective Date. This act shall take effect 60 days after its passage.

Adopted.

HB 1081-FN, naming a part of Route 111 in the town of Windham the Waterhouse Memorial Road, requiring year-round maintenance for Base Road in the town of Carroll and amending various highway and motor vehicle laws.

SENATOR CHANDLER: This amendment to the title of the bill is necessary to reflect the changes made by the committee of conference.

Amend the title of the bill by replacing it with the following:

AN ACT naming a part of Route 111 in the town of Windham the Waterhouse Memorial Road and amending various highway and motor vehicle laws.

Adopted.

HB 897, relative to annual reports of county officers.

SENATOR CHANDLER: This amendment is necessary to incorporate a change to RSA 30:1 made by HB 480, enacted earlier this session as chapter 89.

Amend the bill by replacing line 2 on page 1 with the following:

30:1 Reports; Publication; Penalty. The sheriff, the superintendent of the county department of corrections, [the

Adopted.

HB 824, relative to AREA school district agreements and relative to staff services to school administrative units, and making an appropriation therefor.

SENATOR CHANDLER: This amendment to the title of the bill is necessary because of changes made by the committee of conference.

Amend the title of the bill by replacing it with the following:

AN ACT relative to area school district agreements, staff services to school administrative units, and the Tilton/Northfield formula.

Adopted.

HB 873, changing the title of "safety inspectors" to "highway enforcement officers" in the department of safety, providing for independent inspectors for carnival and amusement rides, and relative to the bureau of common carriers.

SENATOR CHANDLER: This amendment is necessary to renumber RSA provisions to avoid duplication of RSA provisions inserted by HB 1036 and HB 1042, enacted earlier this session as chapter 45 and 64, respectively. The amendment also corrects amending language and reference errors.

Amend the bill by replacing line 1 on page 1 with the following:

1 Duties of Commissioner. Amend the introductory paragraph of RSA 21-P:4, IV to read as follows:

Amend the bill by replacing lines 6-8 on page 4 with the following:

9 Inspections. Amend the introductory paragraph of RSA 266:1, V to read as follows:

V. The director may authorize properly qualified persons to make

Amend the bill by replacing line 16 on page 6 with the following:

commissioner or his designee.

Amend the bill by replacing lines 2 and 3 on page 7 with the following:

after subparagraph (t) the following new subparagraphs:

(u) Application for and issuance of household goods carrier

Amend the bill by replacing lines 1-6 on page 8 with the following:

(v) Annual reporting requirements, as authorized by RSA 375-A:13.

(w) Regulating household goods carriers, as authorized by RSA 375-A:14.

(x) Regulating common and contract carriers of property by motor vehicle, as authorized by RSA 375-B:17.

(y) Regulation of common and contract carriers of passengers by

Amend the bill by replacing line 6 on page 11 with the following:

to the provisions of this chapter and RSA 375-B shall be made available to

Adopted.

HB 1093-FN, relative to reporting requirements of corporations having securities registered in this state.

SENATOR CHANDLER: This amendment corrects a reference and deletes certain statutory language made unnecessary by a chapter definition.

Amend the bill by replacing lines 6-16 on page 1 with the following:

file with the director annually a financial statement audited and certified by an independent certified public accountant. The audited statement shall be prepared in accordance with generally accepted accounting principles and such other standards as the director shall adopt by rule. [The director shall certify the statement to the secretary of state before the secretary of state may accept the corporation's annual report.] Issuers of securities registered under this chapter shall also provide quarterly financial reports within 60 days of the end of each quarter to their shareholders, partners, and the director. Such quarterly reports need not be independently audited.

Adopted.

HB 1162-FN-A, relative to AIDS education, prevention and control and making an appropriation therefor and relative to testing for the AIDS virus for insurance purposes.

SENATOR CHANDLER: This amendment is necessary to prevent duplicative numbering of an RSA provision, if HB 858 of the 1988 regular session becomes law.

Amend lines 4-7 of page 17 of the bill by replacing them with the following:

14 Conditional Provision. If HB 858, An Act relative to fetal alcohol syndrome, of the 1988 regular session of the general court becomes law, then RSA 457:23, II as inserted by section 6 of the bill shall be renumbered to read as RSA 457:23, III. In addition, the cross-reference to RSA 457:23, II in RSA 141-F:3, XIII as inserted by section 2 of this act shall be changed to RSA 457:23, III.

15 Effective Date.

I. Sections 3, 4, 5, 6, and 10 of this act shall take effect 120 days after its passage.

II. The remainder of this act shall take effect upon its passage.

Adopted.

SB 258, relative to boating restrictions on Little Diamond Pond in the town of Stewartstown.

SENATOR CHANDLER: This amendment is necessary to renumber the RSA section inserted by this bill to avoid duplicating the numbering of RSA sections already inserted earlier this session by HB 741 and SB 245, which became chapter 21 and 82, respectively.

Amend the bill by replacing lines 1-3 on page 1 with the following:

1 Little Diamond Pond. Amend RSA 486 by inserting after section 34 the following new section:

486:35 Little Diamond Pond.

Adopted.

SB 305-FN, relative to pari-mutuel pools at dog races and authorizing a study of greyhound racing.

SENATOR CHANDLER: This amendment to the title is necessary to incorporate changes made by the committee of conference.

Amend the title of the bill by replacing it with the following:

AN ACT relative to pari-mutuel pools at dog races and authorizing a study of greyhound and horse racing.

Adopted.

SB 310-FN-A, relative to the purchase and distribution of breath analyzer machines and making an appropriation therefor.

SENATOR CHANDLER: This amendment corrects a cross reference in the bill.

Amend the bill by replacing line 4 on page 2 with the following:

analyzer machines pursuant to sections 1 and 2 of this act.

Adopted.

HB 606-FN, relative to the lock up of children and the Anna Philbrook Center.

SENATOR CHANDLER: This amendment is primarily necessary to correct problems arising because this is a re-referred bill. The amendment incorporates statutory changes made by 1987, 402 and changes a date from January 1, 1988, to January 1, 1989. The amendment also makes terminology changes required because of the passage of HB 480 earlier this session, which became chapter 89, and corrects a cross reference.

Amend the bill by replacing lines 12-13 on page 3 with the following:

court order following an adjudication that a child is delinquent and shall be permitted to remain in the community, including his home,

Amend the bill by replacing lines 20-23 on page 3 with the following:

(c) The supervision of a juvenile services officer, as authorized by RSA 170-G:16; and

(d) Return to the court for violation of conditions of the release and change of disposition at any time during the term of conditional release.

Amend the bill by replacing line 27 on page 5 with the following:

1989.

Amend the bill by replacing line 5 on page 7 with the following:

defined in RSA 169-B:2, pending the arrival of the parent, guardian, or

Amend the bill by replacing lines 11-16 on page 9 with the following:

14 Terminology Change. Amend RSA 169-B:2, I to read as follows:

I. "Adult lock-up or jail" means a locked facility, used primarily to house adults charged with or convicted of violating criminal law. This includes police lock-ups, county [jails, and houses of correction] correctional facilities, and any facility used by county sheriffs, state police, or local police to securely detain adult offenders and accused offenders.

15 Terminology Change. Amend RSA 169-B:15-a to read as follows:

169-B:15-a Lock-up Log; Establishment and Contents. Each county [jail, house of correction] correctional facility, police lock-up, and any facility used by law enforcement, county sheriffs, or state police to securely detain minors must establish a lock-up log for all minors securely detained. The log must contain the identification number, the charge, the date and time locked in secure detention, the date and time released from secure detention, to whom released, and reason for secure detention. The log shall be kept confidential both by the agency or facility which maintains it and by the division for children and youth services, which shall receive copies of the log, January 1 and June 1 of each year, beginning January 1, 1989.

16 Effective Date.

I. RSA 169-D:9-b as inserted by section 7 of this act, and section 13 of this act, shall take effect on December 31, 1989, or 60 days after the certification of 60 shelter care/detention beds as provided in section 12 of this act, whichever occurs first.

II. Sections 14 and 15 of this act shall take effect June 17, 1988.

III. The remainder of this act shall take effect upon its passage.

Adopted.

HB 1129, making supplemental operating budget appropriations, amending the operating budget, and making certain other appropriations.

SENATOR CHANDLER: This amendment makes an adjustment in the totals in a section of the bill. The amendment also adds a contingency section which will become effective if HB 847-FN-A of the 1988 regular session does not become law.

The amendment makes a technical correction in PAU 05, 02, 03, 02, 07 to conform to SB 276 of the 1988 regular session which was enacted into law as chapter 71 and corrects 2 transcription errors.

Amend the bill by deleting lines 9-14 on page 2.

Amend the bill by replacing lines 5-9 on page 5 with the following:

	<i>FY 1988</i>
Total	[2,405,013]
	2,425,513
Estimated source of funds for bureau of district offices	
General Fund	[2,405,013]
	2,425,513
Total	[2,405,013]
	2,425,513

Amend the bill by replacing lines 12-18 on page 10 with the following:

	<i>FY 88</i>
90 DCYS settlement *	[17,706,126]
	21,510,211
Total	[17,706,126]
	21,510,211
Estimated source of funds for DCYS - settlement	
00 Federal funds	[600,000]
	-0-
05 Private or local funds	[4,276,530]
	5,322,783
General fund	[12,829,596]
	16,187,428
Total	[17,706,126]
	21,510,211

Amend the bill by replacing line 7 on page 26 with the following:

	<i>FY 1988</i>
29 Transfers to infor services A	[10,709]
	31,709

Amend the bill by replacing line 24 on page 30 with the following:

Total 536,190 636,227

Amend the bill by replacing line 3 on page 34 with the following:

86 Contingency. IF HB 847-FN-A of the 1988 regular session does not become law, the following footnote shall be inserted at the end of PAU 01, 04, 01, 02, 04 as amended by section 1 of this act:

It is the intent of the general court that RSA 604-A:9 be implemented to the fullest extent possible and that all fees and costs provided

on behalf of an indigent shall be recovered and continually appropriated to the indigent defense program.

The department of administrative services is hereby authorized to enter into percentage of collection contracts to recover fees and costs provided on behalf of an indigent.

87 Effective Date. This act shall take effect upon its passage.

Adopted.

Senator Dupont moved that all legislation including, committees of conference, and bills that have not been addressed as of this time by this body will be declared inexpedient to legislate.

Adopted.

INEXPEDIENT TO LEGISLATE

HB 585-FN, establishing a committee to study motor vehicle emissions control.

HB 773, relative to a legal holiday on June 21, 1988, celebrating New Hampshire's role in ratifying the United States Constitution and suspending the celebration of Fast Day for 1988.

HB 924, to increase the age limit relative to the motor vehicle child restraint requirement.

HB 1119, relative to restrictions on thrill craft.

HB 1142-FN-A, relative to the construction of certain water treatment projects and making an appropriation therefor.

HB 532, allowing real estate firms or brokers to establish interest bearing trust accounts.

HB 896, permitting a corporation to limit the liability of its directors and officers in its articles of incorporation.

HB 921-FN, establishing a joint legislative oversight committee on highway and bridge construction and reconstruction plans.

HB 1067-FN, relative to the penalty for an aggravated DWI offense.

HB 1163-FN-A, relative to nursing home care costs paid by counties and relative to nursing home grants for the department of health and human services.

HB 1167-FN, relative to elderly property tax credits.

HB 1208-FN, relative to estimates of unrestricted revenue.

Senator Dupont moved that the business of the day being complete, the Senate recess to the Call of the Chair for the sole purpose of Enrolled Bills Report and House Messages.

Adopted.

Recess.

Out of Recess.

ENROLLED BILLS REPORT

HB 12, recodifying the workers' compensation law.

HB 237, limiting the civil liability of volunteers working on behalf of nonprofit organizations and government entities.

HB 401, relative to video tape depositions.

HB 734, relative to posting of bond by administrators of estates.

HB 753, reinstating the charter of Bethlehem Mink Farm, Inc. and the charter of James A. Smith Contracting, Inc.

HB 758, establishing a committee to study the juvenile justice system and juvenile delinquency, and relative to the age of criminal responsibility.

HB 784, relative to disclosure of securities takeovers.

HB 821, legalizing certain town meetings and hearings and relative to a statutory procedure for curing legal defects in town meetings.

HB 832, establishing a 10-year bridge construction and reconstruction plan.

HB 852, relative to New Hampshire hospital personnel and relative to claims arising from the clinical operation and administration of New Hampshire hospital.

HB 858-FN, relative to fetal alcohol syndrome.

HB 885, relative to establishing a boat safety fund; and requiring a boat safety course or administrative fine for offenses while boating.

HB 912, relative to rules in manufactured housing parks and warranties for presite built and prefabricated housing.

HB 917, making technical changes for the department of revenue administration and relative to the taxation of transferable shares under the interest and dividends tax.

HB 932, establishing a New Hampshire film and television bureau and making an appropriation therefor.

HB 935, relative to recording plats.

HB 978, legalizing certain town meetings.

HB 980, relative to penalties for sewage treatment violations.

HB 1061, relative to retaining certain state-owned land overlooking Lake Winnisquam.

HB 1088, establishing pilot child care provider recruitment and training programs, and making an appropriation therefor.

HB 1097, relative to underground storage tanks and relative to funding a potable water supply for the town of Meredith.

HB 1109, relative to the purchase of the Cheshire bridge in the town of Charlestown and making an appropriation therefor.

HB 1144, relative to civil penalties for violations by public utilities..

HB 1146, relative to abandoned property.

HB 1150, permitting the attorney general to hire part-time attorneys general.

HB 1180, increasing the rate for residents of enhanced family care facilities and making an appropriation therefor.

HB 1159, relative to the Southeast Regional Refuse Disposal District and authorizing towns to contract for solid waste disposal services.

HB 625, relative to fees for boats and boat registration, and making certain appropriations.

HB 775, to revive the charter of the Fuller Foundation of New Hampshire, Inc., a nonprofit organization.

HB 810-FN, relative to overseas voters.

HB 940, relative to child support enforcement and paternity.

HB 1133-FN, relative to home rule and municipal charters.

HB 1188-FN, establishing age limits for operators of off highway recreational vehicles and amending compliance dates for manufacturers of all terrain vehicles

SB 261, relative to setting seasons and bag limits on small game birds and animals.

SB 262, establishing a New Hampshire conservation corps and making an appropriation therefor.

SB 279, relative to motor vehicle emissions testing.

SB 289, establishing a committee to study school facilities.

SB 301, relative to the deadline for an environmental impact study for a 4-lane east-west highway from Concord to the Spaulding turnpike.

SB 302, relative to fireworks.

SB 304, relative to the disposition of fines and forfeitures collected for violations of municipal ordinances, codes, and regulations, transferring certain appropriations within the judicial branch, and making a supplemental appropriation for new positions in the judicial branch.

SB 306, relative to low-dose mammography screening and establishing a committee to examine regulating persons operating x-ray equipment.

SB 315, relative to the division of plant and property management, and to the personnel appeals board and making an appropriation therefor.

SB 317, relative to master plans and their housing sections and relative to the compilations of regional housing needs assessments.

SB 323, relative to providing medical assistance to children who are severely disabled, establishing an oversight committee, and making an appropriation therefor.

SB 326, establishing a New Hampshire rivers management and protection program and making an appropriation therefor.

SB 334, establishing a comprehensive literacy and dropout prevention program, and making an appropriation therefor; and establishing a study committee to examine the illiteracy and dropout problems.

SB 345, relative to disciplinary proceedings conducted by the committee on judicial conduct.

SB 347, increasing rates for shared homes and making an appropriation therefor.

SB 349, to provide 2 additional field staff and additional equipment to the division of air resources for statewide air quality monitoring and making an appropriation therefor.

SB 355, appropriating additional sweepstakes revenues for foundation aid.

SB 357, relative to legalizing the Seabrook town meeting and establishing the Seabrook Scholarship Fund.

HB 606, relative to the lock up of children and the Anna Philbrook Center.

HB 1129, making supplemental operating budget appropriations, amending the operating budget, and making certain other appropriations.

SB 305, relative to pari-mutual pools at dog races and authorizing a study of greyhound and horse racing.

HB 794, making capital appropriations and supplemental capital appropriations.

HB 990, relative to maintenance of court facilities and relative to funding for the planning and design of new district court facilities.

HB 594, relative to victims' assistance and establishing a victims' assistance fund.

HB 639, relative to certification of soil scientists and establishing a board of natural scientists.

HB 763, relative to the operation of ski craft on the lakes, ponds and rivers of the state.

HB 803, relative to OHRV operations and changing compliance dates for ATV manufacturers.

HB 824, relative to area school district agreements, staff services to school administrative units, and the Tilton/Northfield formula.

HB 842, granting county commissioners planning and zoning authority in unincorporated and unorganized places and establishing a legislative study committee relative to these places.

HB 847, relative to indigent defense.

HB 862, relative to solid waste disposal and source reduction and making an appropriation therefor.

HB 873, changing the title of "safety inspectors" to "highway enforcement officers" in the department of safety, providing for independent inspectors for carnival and amusement rides, and relative to the bureau of common carriers.

HB 876, relative to restricting waterskiing in certain coves on Squam Lake and making a supplemental appropriation to the University of New Hampshire.

HB 897, relative to annual reports of county officers.

HB 962, relative to a ski lodge and improvements at Mount Sunapee and making an appropriation therefor, and relative to certain major capital projects and the water pollution control revolving loan fund.

HB 972, relative to annulments of drug convictions and convictions which may be counted toward habitual offender status, and permitting the director of motor vehicles to review revocation of licenses of habitual offenders for possible restoration under certain conditions.

HB 1081, naming a part of Route 111 in the town of Windham the Waterhouse Memorial Road and amending various highway and motor vehicle laws.

HB 1093, relative to reporting requirements of corporations having securities registered in this state.

HB 1162, relative to AIDS education, prevention and control and making an appropriation therefor and relative to testing for the AIDS virus for insurance purposes.

HB 1171, relative to boating restrictions on White Pond and Duncan Lake in the town of Ossipee.

HB 1204, establishing a grant-in-aid program to provide temporary emergency shelter for the destitute, establishing the affordable housing fund, and establishing a low and moderate income housing loan program, and making an appropriation therefor.

SB 258, relative to boating restrictions on Little Diamond Pond in the town of Stewartstown.

SB 294-FN, relative to the catastrophic aid formula.

SB 310, relative to the purchase and distribution of breath analyzer machines and making an appropriation therefor.

Recess.

Out of Recess.

Tuesday, May 3, 1988

Senator Dupont moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Tuesday, May 3, 1988 at 1:00 p.m..

Adopted.

LATE SESSION

Senator Dupont moved that the Senate adjourn.

Adopted.

Adjournment.

Tuesday, May 3, 1988

The Senate met at 1:00 p.m.

A quorum was present.

The President excused Senator Krasker and Senator Stephen for the day.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Veto, Veto, Veto, who has the Veto?

Let Us Pray. Lord, it is good for us to be together again to consider the Governor's Vetos. We hope that things will work out for the betterment of our citizens - as we strive to be fair in our judgements! It has been a good year together - and may God bless us - until we meet again - Next Year!!!

Amen

Governor Sununu led the Pledge of Allegiance.

GOVERNOR SUNUNU: A lot of you that are here have been part of this process much longer than I. Some of you have a set of terms that have coincided with the last five or six years and I want to compliment all of you; Senate President, the leadership on the majority side and on the minority side, this has probably been the smoothest and most cooperative legislative session I've had of the three, so far. I just hope that the next three or four or five or six will be as equally productive and effective. It is, I think, a hallmark of the State of New Hampshire that the kind of cooperation that came out of this session produces results that make a difference. This State is unusual. It is a State that has a very different way of doing things. It has a truly citizen legislature. A legislature, House and Senate, that really do represent the people and I'm just pleased that this session was as effective as it was. Mr. Senate President, congratulations to you and all your colleagues.

INTRODUCTION OF GUESTS

RULE 44

Senator Hough spoke under Rule 44.

SENATOR HOUGH: If you would allow me to indulge under the Rule 44 provision, I would like to make the following comments. It is to our President, President Bartlett's, good and strong leadership that we have had an opportunity to invite the Governor in on this our last day to briefly address us. It is my recollection, in the ten years that I've served in this chamber, that the Governor has not come in to address us, either prior or on final day of adjournment. When I first came to the House, we used to open every session with the presence of not only the Governor but the Senate in joint convention. I think there are some traditions that, because of the haste of

our work, fall by the way side. I compliment the President for inviting the Chief Executive and in the future, I would think it would be nice to have brief comments by the Chief Executive during the future sessions. Mr. President, for that invitation, I commend you.

Senator Hounsell moved that Senator Hough's comments be made part of the daily and the permanent journal.

Adopted.

GOVERNOR'S VETO MESSAGE

TO THE HONORABLE MEMBERS OF THE GENERAL COURT:

I have this day vetoed SB 267, An Act relative to child passenger restraints in motor vehicles.

In doing so, it is my belief that the law as passed is simply the initial step which would inevitably result in the passage of a broad mandatory seatbelt law in this state. As I have stated repeatedly in the past, I feel that this would be very unfortunate.

Of further concern to me is the deletion of the waiver provision for the fine which is presently in law. I feel that this provision serves as an effective incentive for individuals to purchase child restraints in lieu of a fine and should not be deleted.

I applaud the recognition that the use of seatbelts is important but educational and incentive programs broadening seatbelt use is a much more effective course of action rather than passing this law. In this regard, I feel that there have been a number of significant educational as well as incentive programs successfully conducted within New Hampshire, both by public and private entities, that have proven very successful and will continue to increase seatbelt use on a volunteer basis.

I would also be remiss in expressing my concerns of this bill if I did not emphasize the fact that this legislation would result in an unmerited deprivation of an individuals' privacy and freedom. Something, we in New Hampshire simply cannot accept.

Respectfully submitted,

John H. Sununu,
Governor

Dated: 4/19/88

Question: Shall the bill pass notwithstanding the veto of the Governor?

SENATOR HOUGH: Notwithstanding the Governor's veto, I wish to encourage you to pass this very important piece of legislation. I know that there are a number of people that want to address this subject and we certainly have the continued and very worthwhile support of the youngsters from the Kimball Street School, who not only very definitely believe in the purposes of this piece of legislation and understand full well what the objectives of this legislation would mean. It is enheartening, as a parent of youngsters, to see these young people who, from my opinion, are wise beyond their years in their support of not only this piece of legislation, but of having had the opportunity to participate in the process of democracy and government. Although, unfortunately, the ultimate resolved today, I feel, will be disappointing to you students, you should be strong of heart because the system does work and there will be another opportunity. If we are not successful I hope, and I have every reason to believe that your presence will continue to dominate this State House until we are successful.

One of the things that one learns, as one participates in the political process, is how to count. I have asked each and every one of the members of this body in this room, not for an explanation, but simply to indicate to me how they would be inclined to vote on this question. I will tell you that I came within 15 votes, and I will also tell you that there were members that indicated to me that they would, in fact, support that position if it could be demonstrated that this was a piece of legislation that would pass. But as our President had indicated, and our constitution is very expressed on this question, two-thirds of this body, or this House, is 16 and in fact we need 16 votes. Regrettably through the demands, two of our members are not here and that is always difficult in addressing veto's because, having such a small body two members can, in fact, make the difference. None the less, I read the Governor's veto message and I have listened to the Governor's comments and I have to tell you in all fairness and all sincerity, and I've spoken with the Governor about this issue and I think that it could be said that we enjoyed a degree of good humor, when kidding one another about this issue and I apprised the Governor one evening to buckle up and he informed us how he was over 12 and didn't have to. But, the parent in John Sununu, the proud parent of many children, the teacher, the engineer in John Sununu, with his analytical mind should come to a position where he can recognize this merit. In all due respect, the Governor

is also a political person and he feels very deeply in the political philosophy to which he aspires. To say that this is an inevitable first step to a mandatory seat belt law begs the question. It is well known that I have introduced, in past sessions and will introduce in future sessions, mandatory seat belt legislation. But, it is also recognized, in past sessions, we passed a child constraint piece of legislation. As I said previously in this chamber, any of us who are parents, who drive the station wagon with the kids in the back, on a trip of any distance, realize it's as much the youngsters between the present law and 12 that are jumping over the back seat and getting into the way back and up on to the front seat and wanting to know when they are going to get there and having to go to the bathroom and having to stop because they're hungry. We're all fortunately going to have safe and happy holidays with our children this summer. But, these are the youngsters, of this age, that should be in fact tied in. If for no other reason, to maintain their parents sanity while driving on vacation. Enough said, I do take issue with the reasons the Governor has set forth, it is public policy in both the House and in this Senate and there have been virtually two pieces of legislation on this subject that have passed both bodies. I think the collective wisdom of 424 individuals, at times, can be at least as if not more correct than our Chief Executive, who in exercising his constitutional power in requiring us to take a final second look at this legislation, has not recognized the effort, the concern and ultimately the lives that could be saved by this piece of legislation. For that reason, as I indicated, notwithstanding the Governor's veto, I urge you to pass this piece of legislation.

SENATOR MCLANE: I want to reiterate what Senator Hough, that every vote is going to count on this attempt to override the Governor's veto. We need one more, so I hope you will all keep that in mind as I give you a couple of facts. One in every 40 infants born today will die in a car crash before the age of 25, and I think if you'll look at these 40 kids up here from Kimball School, I would hate to be the one to pick the one who is not going to live to age 25. For every one percent increase in seat belt usage, 150 lives are saved in the United States. In Tennessee, which has this bill for a child restraint law, after six years the fatalities with children had been cut 60%. In Michigan, they estimate that they have saved 522 children in a year from injury. When we talk about injuries, we're talking about injuries like severe brain injuries. An injury that costs all of us \$136,000 a year to keep one person in a brain injury hospital. The total is six million dollars that the nonuse of seat belts costs us every year. Doctor Spencer Brody, who is president of the pediatric society and

spoke at a couple of the hearings, says, "I don't see how mandatory vaccinations deprive children of their rights". I would hate to ask the Kimball School if they should be allowed to vote on whether they get vaccinations or not. I don't think kids like vaccinations very much but, I think that if you really put it to them what the alternative was, that they would say that kids should have their vaccinations. In that manner, I think it is extremely appropriate that the Kimball School is here today because these are the kids that are going to buckle up. It is their decision and I think it is an important one for them to make.

In closing, let me just speak to the Governor's problem with the waiver. In the present seat belt law for children under 5, there is a waiver that instead of paying the \$30 fine, you can tell the judge you're going to go out and buy a child restraint seat. There is no necessity for a 12 year old to have a child restraint seat and for that reason, the fact that it is not necessary to buy these devices for these older children, and because the law enforcement people asked us to take out the waiver, we did. The police on the road are tired of pulling someone in, citing them for seat belts and then having them get away with it in court by promising that they will go and buy a seat belt chair. So, for that reason, we have taken out the waiver. For that reason and others, I urge you to overcome the Governor's fear that this is but the first step to mandatory seat belts. It is not. It is a completely different issue and I beg of you, for the sake of those children, that will be saved in the next year, that you go along with the Kimball School.

SENATOR JOHNSON: Notwithstanding the Governor's veto, I rise in support of SB 267, as passed by this body by a substantial margin, only a few weeks ago. The legislature passed the ball to the Governor; the Governor exercised his executive and constitutional authority by looking at it in a different light and expressing himself, as he has done. The ball is now back in our court. Subsequent to hearing about the Governor's veto, I did some further investigating. Yes, I was impressed by the Kimball School students but, I thought one class doesn't really make this law pass by itself. So, I went back to the schools and the PTO organizations in my district, to find out how they felt about it and I've got some rather significant feedback and would like to share some of that briefly with you today.

This is from Canterbury; "Dear Senator Johnson, as the head of a PTO, mother of three children ages 4, 9 and 10 and a nurse, I am strongly in favor of the seat belt bill for children through age 12".

She goes on to say, "that this past fall, my husband and I were witnesses to an accident where a young man around 20 years of age receive multiple scalp and facial lacerations and a loss of teeth after hitting a windshield. If he had been wearing a seat belt, his injuries certainly would have been much less, perhaps none at all".

From the Strafford School in Center Strafford I received written feedback from 18 staff members. 15 of them expressed overwhelming support for SB 267. Quickly, one says, "I feel that if children continue the sensible habit of buckling up throughout childhood, they would continue automatically through adulthood. I think it's a great idea". A second person says, "I strongly support this bill which protects children and regret the Governor's veto". Of the three people who disagree, one of them said, "I agree with the Governor's veto, I do not support this bill". But the results were 15 to 3, rather overwhelming.

I'd like to say, one of my three reasons for voting to override the bill today is what I just mentioned. The significant support from parents and teachers, the people who would be most significantly effected by the passage of this legislation.

Secondly, during the Senate Transportation committee hearing, ably chaired by Senator Preston, the medical community of New Hampshire expressed their support in the strongest possible terms. The orthopedic people, the pediatricians and I've continued to receive call from doctors in my district on an individual basis. So, that's my second reason.

My third reason is this, I believe that this is not a precursor to a broader seat belt law. Not a precursor, but rather a preventor of a broader seat belt law. I think if you want to prevent a broader seat belt law, from ever coming back, this may be the way and I urge you to pass this bill as originally passed.

SENATOR HOUNSELL: I think today, on this particular issue, people of the State of New Hampshire owe Governor Sununu a big vote of thanks. I also think that they'll be most appreciative when this Senate votes to sustain his veto. The question is not should all the citizens of the State who are under 12 years of age wear a seat belt, because we all know that the answer to that question is yes. The question is however, should the State of New Hampshire mandate to its citizenry that they shall wear a seat belt or pay a court fine. I do not hesitate to declare to you that the majority of the

people of New Hampshire reject that type of paternalistic law making. So, if we are here to do the will of the people, which I believe we are, and I believe all of you feel that same way, then we should, at this time, vote to sustain Governor John Sununu's veto of this bill.

SENATOR CHARBONNEAU: I have heard from the medical field who deal in pediatrics. They have a grave concern for the young children that are being injured. I ask you to over turn the Governor's veto. If next year the sponsors decide to raise the age again, I will vote against mandating seat belts. But, let's protect our children. Let's keep them alive and try to keep them free from injury. Remember, they are our future.

SENATOR PODLES: I support SB 267. With two doctors in our house and a nurse, I hear constantly about the injuries that children sustain, head injuries, and also body injuries, as a result of not wearing seat belts. I feel very strongly that seat belts do, indeed, save lives and also reduce injuries. Seat belts are a preventive measure as Senator Johnson has indicated and also, it is a bill, another bill that is going to protect children. I urge all of you to override the Governor's veto.

Roll Call:

The following Senators voted yes: Bond, Hough, Disnard, Roberge, Blaisdell, Pressly, Nelson, Charbonneau, McLane, Podles, Johnson, Torr and Preston.

The following voted no: Hounsell, Heath, Freese, Dupont, Chandler, White, Bartlett, St. Jean and Delahunty

13 Yeas

9 Nays

Veto Sustained.

Senator Krasker wished to be recorded as voting to override the Governor's Veto.

Senator Stephen wished to be recorded as voting to sustain the Governor's Veto.

SUSPENSION OF JOINT RULES

Senator Dupont moved to suspend the Joint Rules as to allow the introduction of a Senate bill after the deadline.

Adopted (2/3rds vote required).

INTRODUCTION OF SENATE BILL

First and Second Reading and Referral

SB 358-FN-A, making an appropriation for the chief medical examiner.

SUSPENSION OF RULES

Senator Dupont moved that the Senate suspend the rules as to allow a committee report without notice and holding of a hearing, without previously listed in the calendar and that the bill be on second reading at the present time.

Adopted (2/3rds vote required).

Senator Dupont moved that the rules of the Senate be so far suspended as to allow SB 358-FN-A to be placed on third reading and final passage at the present time.

Adopted.

Third Reading and Final Passage

SB 358-FN-A, making an appropriation for the chief medical examiner.

Adopted.

GOVERNOR'S VETO MESSAGE

TO THE HONORABLE MEMBERS
OF THE GENERAL COURT:

I have this day vetoed SB 302, An Act relative to fireworks.

Although most of this legislation clarifies many of the ambiguities in existing law and in fact strengthens the requirements under which fireworks could be sold or used, there are provisions within this bill which would add to the misunderstanding and confusion that currently exists, and therefor impede the application and enforcement of our existing laws.

I believe that since there are already significant changes in the law under legislation from preceding years which will in fact take effect soon, remedial legislation such as this can be most effectively crafted and implemented after some history of application of previously passed legislation can be established.

Clearly, recent well publicized misunderstandings and misinterpretations of the effect of various provisions of SB 302 underscore the fact that a combination of practical experience with existing laws and clearer legislative language would be a more appropriate way to deal with the issues addressed in this bill.

Respectfully submitted,

John H. Sununu,
Governor

Dated: 4/30/88

Question: Shall the bill pass notwithstanding the veto of the Governor?

SENATOR WHITE: There has been an awful lot of confusion out there in regards to what is on the books and what this particular bill does. I rise notwithstanding the Governor's veto in support of SB 302. There has been more information generated in the media lately about the fireworks law than has been generated about any other measure, except money bills. Unfortunately, most of it is inaccurate and confusing. You might even say that there has been an explosion of information with more smoke than fire. What exactly has been done by passing SB 302? SB 302, as amended by both the House and the Senate and then further amended in the committee of conference, establishes under RSA 158-9C, sees to the storage and permits of class B fireworks. Class B fireworks are the big ones that you have in your regular 4th of July celebrations, highly explosives. These are professional type fireworks used in the pyrotechnical displays that we know and they have to be handled and stored very carefully. We have also clarified the criteria under which rules would be promulgated to regulate the sale, storage, handling, transportation, inspection and administration of the fireworks law. This amendment makes it mandatory that a class B display operator have a certificate of competency as required to receive a display permit, which is only good for a 15 day period. The permits would be granted by the city, town or governing board of the same as the local fire chief having statutory veto or ramification power. I think that's part of the important thing. If your town does not wish to have fireworks, they don't have to have them. They just do not issue the permits. It's absolute local control. In the new legislation, we've included a definition of display and sale relative to both class B and class C fireworks. Under SB 302, cities, towns and other political subdivisions have the power, under the home rule aspect, to chose not to grant permits at

all. Only certain people can be granted permits to sell fireworks; only manufacturers, or holders of an imported license granted by the federal government or holders of a federal firearms dealers license. Under the current law, anyone can sell fireworks. So, you could have them on any corner in any town. In a recent article of the fireworks magazine, they indicated, in regards to this particular bill, that it would allow local option for the sale and discharge of common fireworks, and one very unique aspect of the bill would allow any dealer to sell common fireworks who is licensed by the Bureau of Alcohol, Tobacco and Firearms, which is the federal bureau which governs fireworks. They go on to say, this is a smart move by the State because of all those BATF license holders have already been screened by the Feds. It's about time that the state government recognize the tremendous presents of federal regulators in our daily lives and use that presence to solve some of their problems. That was one thing that we put in at the request of the Department of Safety, because they felt that they did not want to have fireworks on the corner of every street, which I don't think any of us do want. There are 32 states, currently, that sell fireworks, class B fireworks, and the consumer product safety division has found that since they are legal they don't have any illegal fireworks. Class B fireworks, as defined under this law, pertains to anything that is 50 milligrams of powder or less. Just for a comparison; a cherry bomb has about 800 milligrams of powder. So, cherry bombs would be definitely excluded under this specific piece of legislation. As you know, there is a big black market of fireworks and they come in now. This bill tightens up the possession of fireworks. It is illegal, under this 302, for anyone under the age of 18 to possess, buy or use fireworks.

I've passed out copies of the current law and all you have to do is look at this and you'll see that there are no restrictions in this bill. Anyone can sell them, any age can buy them. Under the new bill, and last year this bill came before us and I stood up and I amended the bill on the floor of the Senate because I said a lot has to be done with this bill because to me it was a very unsafe bill. We changed the effective date on the floor of the Senate to May 1, 1988 and that's the current law. It went into effect on Sunday. So that anyone now, can purchase or possess fireworks with a permit, but no age restriction. Since 1943, the law has been on the books that it was legal in any community with a permit. We really haven't changed much, what has changed is the press finally understand that fireworks are legal in the State of New Hampshire. So, it went from one article to another article to another one whereby people finally feel that the bill that was passed this year, was the one that legalized fireworks. It

wasn't. I don't know if any of you get fireworks but, ever since I've been in New Hampshire I've had a display permit and I set them off on the 4th of July. The police now, since I've been in the Senate and it gets down towards the end, they come to me and say, did you get your permit yet? I go down and get my permit. Any town can determine if they want fireworks they can have them. If they don't want them they don't have to have them. This is as simple as that. Back in the 80's, when we dealt with the kerosene heaters, some of you may recall, people thought that they were dangerous to have in the house, so what we did was to put it through a permitting situation through the local fire departments. If you wanted a kerosene heater you had to go and get a permit. That's how it was at that point. In 1976, the federal government removed all restrictions on fireworks, class B fireworks, because they felt they were no longer dangerous to society. Since that time, the American Pyrotech Industry has tried to improve their imagine so they had a safer product. We have been through all of the liability problems that we want. I think it's a great bill.

In January of this year, the front page of the Keene Sentinel said "Senate oks allowing fireworks", it was there last year, it has been there this year. When we went into the House for the bill to have a hearing in the House, no one appeared. It is a restrictive bill, it is not an increasing bill. If you read Sunday's paper, fireworks are legal. They are legal and they will continue to be legal and you will have more problems with the 1987 bill than you will with the 1988 bill because they are legal. The restriction is what has been vetoed and if you had read the veto message you will find out that even the Governor in his veto message wasn't all that definite against the restriction. I was just reading a commentary, an editorial, from the WGIR paper that said, "as State legislators return to consider gubernatorial vetos we suggest, we strongly suggest that they override Governor Sununu's dismissal of an amendment to the State's fireworks law". It would strength local officials authority over permits and prohibit the use of class B fireworks by those under the age of 18. We do live in the "Live Free or Die" State and I think it's time we let people celebrate the 4th of July and any other important thing with fireworks. This bill is restrictive. It is not increasing the use of fireworks. I think it's unfortunate that so many people misunderstand the bill but it's there and I would be glad to answer any question that you might have that has to do with this bill.

SENATOR HEATH: Senator White, if I believe in the rights to celebrate the 4th of July with fireworks in the most unrestrictive way, would I vote to sustain the veto?

SENATOR WHITE: You'd vote to sustain the veto then you could do it any place you wanted and you could get them any place you wanted because there isn't any restriction in the existing law, Senator Heath. As President Ford said, when he removed all the restrictions from them, break out the flag, strike up the band, light up the sky, let the whole world know that the United States of America is about to celebrate another happy birthday. In the words of the immortal, Al Jolson, you ain't seen nothing yet. So, that would really be wide open if you did not override the veto.

SENATOR HOUGH: I understand that you're concerned with child safety as I am but, I'm confused. We do have a bill that was passed last session.

SENATOR WHITE: That's correct.

SENATOR HOUGH: What does the present law say relative to transportation across state lines, if that's the question, or mail. Can you mail fireworks in and out of the state?

SENATOR WHITE: Yes and you have been able to since 1943.

SENATOR HOUGH: What does your bill do?

SENATOR WHITE: My bill, what it does is if someone from out-of-state purchased them in New Hampshire they have to transport them out of the state within 24 hours. So, again, it's more restrictive than the current law says.

SENATOR HOUGH: So, I'm coming from Massachusetts up to your store, buy some fireworks, continue on to Winnepesaukee for my summer home.

SENATOR WHITE: You can't do that if you override the veto. You could do it if you sustained the veto because there are no restrictions on what out-of-state people do with their fireworks, in-state.

SENATOR HOUGH: Finally, my fire people are telling me that they don't like your bill. But, I guess I'm having a little problem. Could there be confusion on the fire professions part?

SENATOR WHITE: That's the whole problem, Senator Hough, there is confusion because they don't know what is already there and

what will happen because what is there. Currently there is no restrictions on those under the age of 18. My bill would say that if you're under the age of 18 you can't possess them. For the first time, law enforcement would have a way to take them away from the kids because it is illegal and it is a violation. They've never had that before. That was one of the things that we put in to try and keep kids safe.

SENATOR HOUGH: I would like to ask you, you had an opportunity to discuss this with the Governor? Seriously, I'm a little confused here.

SENATOR WHITE: I discussed it at lengths with the Governor, as a matter of fact, quite late Friday night trying to convince him that it was a good bill and it would even be better if he let it go in without his signature. But, there's so much confusion that the people don't know what is legal. And, I think this is one way to let people know and it's going to be chaos if you don't override the veto, because it's going to wide open and then you'll really get grief. Because you won't be able to restrict the kids that are under the age of 18, you won't be able to restrict who sells them, you can have them on every street corner. This bill restricts it and unfortunately, the fire departments have not read the current law. As I said, we worked very closely with the police to tighten it up so that they could go out and get them. Under this law, you've got to have a permit to have them in your hand.

SENATOR MCLANE: I think I want to ask sort of the opposite of the question that Senator Heath asked. If I think we made a mistake in passing the law that just went in to effect on Sunday, and I don't think that the State of New Hampshire should be encouraging the use of fireworks. If I feel that way, would I vote with you to override the Governor's veto?

SENATOR WHITE: Yes.

SENATOR MCLANE: And then perhaps in the next session, come back in and undo the damage?

SENATOR WHITE: Correct.

SENATOR ST. JEAN: Senator, I, like Senator Hough, am a little confused still. Under your amendment, who would be allowed to sell fireworks?

SENATOR WHITE: Under my amendment, number one; fireworks are controlled in Washington under the Bureau of Alcohol, Tobacco and Firearms, otherwise known as the BATF. Under my amendment, only those people that were federally licensed by the government could sell fireworks.

SENATOR ST. JEAN: How many people in the state are currently licensed to sell fireworks from Washington?

SENATOR WHITE. I think there's about four that deal with explosives. Under the bill that I propose there's probably close to 1500, is what I heard from the advertiser people. If this bill does not pass, then the grocery store, the drug store, the gas stations, and everyone else will be able to sell fireworks.

SENATOR ST. JEAN: Give me an idea of those 1500, what type of individual will be able to sell fireworks then? Would they be like K-Mart and places like that that sell gun shells and the like?

SENATOR WHITE: Yes, basically, if K-Mart has a license to sell, they could sell them. As I said, I heard there were 1500, I don't know who they are or where they are, but it's not a restrictive thing. Basically, the reason we did that was because gun dealers have to be sure people are 18 years old, they deal with gun powder, they deal with the federal government, all of this is regulated by the federal government and we felt that there was control. There isn't any control without this amendment. You can think it's dangerous but, it's a lot more dangerous without the SB 302.

Roll Call:

The following Senators voted yes: Bond, Hounsell, Freese, Hough, Duont, Disnard, Roberge, Blaisdell, White, Charbonneau, McLane, Podles, Johnson, St. Jean, Torr, Delahunty and Preston.

The following voted no: Heath, Chandler, Pressly, Nelson and Bartlett.

17 Yeas

5 Nays

Veto Overriden.

Senator Krasker wished to be recorded as voting to sustain the Governor's Veto.

Senator Stephen wished to be recorded as voting to sustain the Governor's Veto.

GOVERNOR'S VETO MESSAGE

TO THE HONORABLE MEMBERS
OF THE GENERAL COURT:

I have this day vetoed SB 304, An Act relative to the disposition of fines and forfeitures collected for violations of municipal ordinances, codes, and regulations, transferring certain appropriations within the judicial, and making a supplemental appropriation for new positions in the judicial branch.

SB 304 would divert seventy percent (70%) of the revenue received from violations of most municipal ordinances, codes and regulations from the state general fund.

With the passage of the unified court system, one of the primary conditions for the State assuming responsibility for virtually all of the cost of the judicial system was the commitment that the revenue from the various district and superior courts within the State would be used to offset the overall cost of this added burden. There is another significant problem with SB 304. This bill appropriates an additional \$105,929 and transfers \$147,000 to create new positions and programs within the system to perform tasks that can and should already be accomplished within the existing system.

It is for these reasons that I do not feel that it is in the best interest of the State of New Hampshire that SB 304 become law.

Respectfully submitted,

John H. Sununu,
Governor

Dated: 4/30/88

Question: Shall the bill pass notwithstanding the veto of the Governor?

SENATOR PRESTON: I'll be brief. This bill passed the Senate without a whimper. The 70-30% change was made in the Senate President's office with the consent of the Senate President, Majority Leader and we signed off on the committee of conference. The bill came back down here and passed unanimously. A similar bill passed in the last session but, without being specific on what the break down would be. This bill includes 70% go back to the towns and 30%

to the courts for costs. It pertains to local ordinances only. It's not a raid upon the state treasury. As I said, the consent was down in front of the Senate President, the Majority Leader concurred and this bill does no harm to anyone and it helps your communities and I urge your support.

Roll Call:

The following Senators voted yes: Bond, Disnard, Roberge, Blaisdell, Pressly, Nelson, McLane, St. Jean, Torr and Preston.

The following voted no: Hounsell, Heath, Freese, Hough, Dupont, Chandler, White, Charbonneau, Podles, Johnson, Bartlett and Delahunty.

10 Yeas

12 Nays

Veto Sustained.

Senator Krasker wished to be recorded as voting to override the Governor's Veto.

Senator Stephen wished to be recorded as voting to override the Governor's Veto.

INTRODUCTION OF SENATE RESOLUTION

SR 10, relative to the heroic efforts of the captain and crew of the USS Samuel B. Roberts. Ought to Pass. Senator Johnson for the committee.

SENATOR JOHNSON: SR 10 is relative to the heroic efforts of the captain and crew of the USS Samuel B. Roberts. Eternal vigilance is the price of safety for those who go down to the sea in ships but, that eternal vigilance is all too frequently, not enough to protect the crews and ships of the US Navy. So, I take this opportunity to remind us that the US Navy is on duty in the Persian Gulf, 24 hours a day, 7 days a week. It is clearly a dangerous mission. On April 4th, last, the USS Samuel B. Roberts, a destroyer, was operating in the Persian Gulf and it struck a mine. It struck a contact mine, one of the simplest and crudest weapons available today and also one of the most destructive. That mine, of World War I and before vintage, basically has destroyed one of our top ships of the line. Ten people were critically injured, and they had to be evacuated to the United States for treatment. Four days after this incident, a US Naval helicopter went down during the retaliatory attack upon the Iranian oil

platforms. This incident claimed the lives of two marines. The US Navy and the armed forces deserve our continued strong public support and the captain and crew of the USS Samuel B. Roberts merits our recognition today in the form of Senate Resolution #10. Thank you.

Adopted.

HOUSE MESSAGES

HOUSE CONCURS

SB 358-FN-A, making an appropriation for the chief medical examiner.

HOUSE SUSTAINED GOVERNOR'S VETO

HB 353-FN-A, relative to municipalities acquiring certain housing projects.

HB 252-FN-A, relative to the rate of the business profits tax.

HB 932-FN-A, establishing a New Hampshire film and television bureau and making an appropriation therefor.

HB 990-FN-A, relative to maintenance of court facilities and relative to funding for the planning and design of new district court facilities.

HB 740, establishing standards for marital mediators and relative to voluntary marital mediation in divorce proceedings.

HB 995-FN, relative to exemption from the gasoline tax and state license plates.

RULE 44

Senator Blaisdell spoke under Rule 44.

SENATOR BLAISDELL: As you just heard from the Senate Clerk and the Senate President, that the House sustained the Governor's veto on HB 252, which is the blended rate. Now, if that bill had come in to this Senate I want it clearly understood, that I would have voted to sustain the Governor's veto. Basically, because I sat on the committee of conference, on the supplemental budget and put my name to that committee of conference report. Most of you, I'm sure all of you are aware in this Senate, that the business profits tax is

the State's largest general revenue source. It is clear that the business activity and BPT revenues are largely responsible for the end financial position of the State of New Hampshire. I want to make clear that the issue here is not the 1.7 million dollars that we'll be sending back to the business community of our state but, rather the issue that Senator Nelson and I fought for in Administrative Rules all summer long. Rather, the issue was consistency and fairness and the application of our tax laws here in the State of New Hampshire. For those of you who have been in this Senate and in the House, historically increases in the business profits tax have been immediate, this has always been the legislative intent. However, every time the business profits tax has been reduced, a blended reduction rate has been implanted by administrative fiat and not legislative intent. We all agreed, in this Senate and in the House, that blended rates are unfair and as I said, both the House and Senate have agreed on this point. In fact, both the House and Senate readily acknowledged this fact by acting affirmatively on HB 252, and it was a voice vote in both bodies. We again, have gone back to the business community in this State and said, get us out of the hole. This is something that some of us champions, we felt it was fairness, it was an issue of fairness and as I said, Senator Nelson probably fought harder than I did in administrative rules against this. We thought it was right to send it back to the communities where it belonged, to the business community. I will put you on notice now, if I am reelected to this seat and I intend to run, no matter what war and peace says, I intend to run for this seat, I suppose that will disappoint some of you but, I, along with Senator Nelson and I know Senator Torr and others in this room, will fight, if the business profits tax, if the business profits tax comes through like some people feel it will. In this morning's corridor when I first got here it said, some people were talking that we received yesterday in the business profits tax eight million dollars. Well, we got a good staff in this Senate, thank God and in the LBA's office. I just picked up the phone and I asked Mr. Connors how much we received yesterday in the business profits tax and I can tell you it was a large sum of \$66,000. So, some how we were short of about seven million, nine hundred and thirty-eight thousand dollars some place, that we could have spent. When we sat on that committee of conference and the supplemental budget, we spent what we had. We felt that was the philosophy that this Senate here wanted us to bring out. We did what we thought was right. What happens in June, if that business profits tax enlarges, and I hope to God it does, really, I hope it gets out there, out of hand and we get more money and we'll spend it all, let's put it that way. But, I think maybe it will happen and if it does, then I say that we should, as a Senate, stand

by what we thought was right in the business community and send that money as a number one priority back to them, if we come back to this legislature. So, I want you to know that that's how I feel. I'm being consistent, I've told you that I would have voted to sustain the Governor's veto because that's the position I took on the supplemental budget. But, I still believe we were wrong and that money should have gone back to the business community because, God forbid we have to go back and ask them again. Thank you very much.

LEGISLATIVE INTENT ON HB 537-FN

SENATOR HOUGH: (speaking on clarification and statement of legislative intent) As I came in to the State House this noon, it was brought to my attention that HB 537-FN, relative to regulation of the practice of nursing. A bill that has to do with the nurses, has a problem. We passed this bill a month ago. Attorney Pfundstein, on our staff, has been looking in to it. There is a drafting question here, wherein it deals with the Board of Nursing. As it was drafted and signed into law, it reads RSA 326 B:3 is repealed and reenacted, to read as follows: 326 B:3 Board of Nursing. Then it goes on to enumerate the numbers and there are nine. It was the policy of this Senate and the policy of the House throughout the process to expand the board by two. I've talked with Senator Bond, Senator McLane, and Senator Torr and I can, with full confidence, tell you that I would speak for Senator Krasker in her absence, that we intended throughout the process to expand the number on the board by two. The way this is drafted, technically, those present members that are seated would be repealed, or thrown off, and a full nine new ones could be appointed. That certainly never was our intent and that's what the problem is. In speaking, I would say that my remarks are consistent with the policy of this body and the House on this piece of legislation as it passed through the process. I would hope that it would be read into the record as legislative intent and anyone to the contrary could refute my remarks, but I would hope that we could let it lie at this.

SENATOR BOND: I just rise to support what Senator Hough has said. As a member of the Public Institutions, Health and Human Services committee, there was never, at any time, any intent of dissolving the present board or eliminating the present seven members, but only to add two. I think that a check of the record of those meetings, that we held on this bill, would substantiate that.

ENROLLED BILLS REPORT

SB 358-FN-A, making an appropriation for the chief medical examiner.

HOUSE MESSAGE

HOUSE OVERRIDES GOVERNOR'S VETO

SB 302, relative to fireworks.

Senator Dupont moved that the business of the 1988 Legislative Session having been concluded, we now adjourn this session Sine Die.

Adopted.

Adjournment.

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adop	adopted
am	amended, amendment
conc	concurred
conf	conference committee
enr	enrolled
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IP	indefinitely postponed
K	killed (inexpedient to legislate)
LT	laid on table
nonconc	nonconcurred
psd	passed
RC	roll call
rcmt	recommitted
recon	reconsideration, reconsidered
rej	rejected
rep	report
req	request, requested
SO	special order
study	referred to interim study committee
wthd	withdrawn, withdrew, withdrawal

SENATE BILLS

1987 BILLS RE-REFERRED TO COMMITTEE

- SB 2**, mandating health insurance for alcoholism and drug dependency treatment.
H study 66
- SB 132**, relative to the appointment of the executive director of the department of fish and game.
H nonconc 66
- SB 147**, relative to surety bonds.
conc H am 80-81, enr 396 (Chapter 3)
- SB 170-FN**, relative to licensure of mental health professionals.
H nonconc 456
- SB 208**, adopting uniform commercial code article 2A-leases.
H nonconc 66
- SB 224-FN**, relative to licensing estheticians.
H study 66
- SB 237**, relative to the controlled drug act.
conc H am 280, enr 439 (Chapter 6)
- SB 238**, relative to bail reform.
conc H am 281, enr 462, recalled from Governor 483, am 500, psd 502, H conc 626, enr 747 (Chapter 110)
- SB 239**, relative to electronic privacy.
conc H am 280-281, enr 462 (Chapter 25)

1988 BILLS

- SB 240**, relative to unnatural and lascivious acts. (Chandler)
3, K 139-141
- SB 241**, relative to the method by which the articles of agreement for cooperative school districts may be amended. (Chandler)
3, K 189
- SB 242-FN**, to provide funding for the sewage disposal systems of the towns of Exeter and Monroe. (Preston et al)
First new title: making an appropriation for the sewage treatment facilities for the towns of Exeter and Monroe.
Second new title: directing the state treasurer to loan funds to the towns of Exeter and Monroe for construction of sewage treatment facilities.
3, am & Finance 156-158, psd 299, 368, conc H am 621-622, enr 854 (Chapter 111)
- SB 243**, reinstating the passenger tramway safety board. (McLane and Hounsell)
3, psd 137-138, 149, conc H am 744, enr 1052 (Chapter 151)
- SB 244-FN**, making intentional transmission of AIDS a felony. (Chandler)
3, am 229-232, psd 249 (H K)
- SB 245**, limiting the horsepower of boat motors on Long Pond in the town of Northwood. (Johnson and Rep. Johnson of Rock. Dist. 1)
4, psd 121-122, 149, H conc 537, enr am 644, enr 700 (Chapter 82)
- SB 246**, relative to the sale of liquor in convention centers and first class ballrooms. (Krasker and Preston)
4, psd 146, 149, H conc 396, enr 481 (Chapter 18)
- SB 247-FN-A**, relative to phase II of restoration of the old state house and making an appropriation therefor. (Krasker et al)
4, rcmt 86, am & Finance 158-159, psd 299, 368, nonconc H am, conf 971 (H IP)
- SB 248-FN**, relative to the length of certain prisoners' sentences. (Chandler)
4, K 234-238
- SB 249**, relative to hawkers and peddlers. (Nelson)
4, K 137
- SB 250**, changing the reporting date for the task force to study support services for families with developmentally disabled children. (Bond)
4, psd 256-257, 277, conc H am 538, enr 592 (Chapter 50)
- SB 251**, requiring a caboose on certain railroad trains. (Chandler)
4, K 99-100

- SB 252-FN**, providing for minimum levels of service over the railroads of the state. (Chandler)
4, K 100
- SB 253**, relative to the length of vehicles. (Chandler)
4, am 145, psd 149, H conc 591, enr 623 (Chapter 66)
- SB 254-FN-A**, making a supplemental appropriation for school aid. (Disnard and Hough)
4, Finance 189, psd 324-325, 369 (H K)
- SB 255**, relative to school district boundaries. (Hounsell and Rep. Weymouth of Graf. Dist. 2)
4, am 189-190, psd 249, conc H am 646, enr 854 (Chapter 112)
- SB 256**, relative to voting in special school districts. (Hounsell and Rep. Weymouth of Graf. Dist. 2)
4, am 215-216, psd 249, conc H am 454, enr 459 (Chapter 7)
- SB 257**, extending the reporting date of the biomass study committee. (Bond)
4, psd 122, 149, H conc 537, enr 592, (Chapter 51)
- SB 258**, relative to boating restrictions on Little Diamond Pond in the town of Stewartstown. (Bond)
5, am 135-136, psd 149, conc H am 538, enr am 1223, enr 1233 (Chapter 218)
- SB 259**, relative to child custody. (Krasker et al)
5, psd 257, 277, conc H am 645, enr 700 (Chapter 113)
- SB 260**, relative to detection of airborne radon in homes. (Disnard et al)
5, psd 267, 277, conc H am 537, enr 699 (Chapter 118)
- SB 261**, relative to setting seasons and bag limits on small game birds and animals. (Preston)
5, am 132-133, psd 149, nonconc H am, conf 650, 846, new conf 1063, rep adop 1174-1175, 1208, enr 1230 (Chapter 219)
- SB 262-FN-A**, establishing an outdoor youth corps and making an appropriation therefor. (Disnard et al)
New title: establishing a New Hampshire conservation corps and making an appropriation therefor.
5, am & Finance 246-248, psd 306-307, 368, nonconc H am, conf 971, rep adop 1187-1188, 1208, enr 1230 (Chapter 265)
- SB 263**, prohibiting the distribution and sale in the state of beverage containers marked as returnable for refund. (Hounsell and Rep. Weymouth of Graf. Dist. 2)
5, K 253
- SB 264**, prohibiting vehicles weighing more than a ton from traveling on old Route 104 in the town of Alexandria. (Hounsell)
5, LT 100, K 363-366
- SB 265-FN**, relative to the operation of a bank acquired in a consolidation. (Disnard and Rep. Krueger of Sul. Dist. 6)
New title: relative to the operation of a bank acquired in a consolidation and to banking department fees and requirements.
5, am 150-156, psd 249, conc H am 1049, enr 1215 (Chapter 220)
- SB 266**, granting immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of nonprofit organizations and governmental entities. (Roberge)
5, K 351-352
- SB 267-FN**, relative to child passenger restraints in motor vehicles. (Hough et al)
5, psd (RC) 112-121, 149, conc H am (RC) 685-686, enr 854, veto sustained (RC) 1235-1240
- SB 268-FN**, relative to litigation of small claims. (Podles)
5, psd 139, 149, H conc 537, enr 623 (Chapter 67)
- SB 269-FN**, relative to indoor air quality in certain state buildings. (Krasker and Rep. Greene of Rock. Dist. 18)
6, am 352-354, psd 369, H conc 591, enr 622 (Chapter 68)
- SB 270-FN**, relative to state monitoring of certain solid waste facilities. (Torr et al)
6, K 162
- SB 271-FN**, establishing a study committee to examine the feasibility of relocating state agencies in Concord. (Torr et al)
6, psd 297, 368, nonconc H am, conf 745, 846 (H K)

- SB 272-FN**, relative to placing a state liquor store on Route 101 west of the city of Nashua. (Pressly and Rep. Derosier of Hil. Dist. 26)
6, K 146-147
- SB 273**, relative to capital murder. (Dupont and Rep. Gage of Rock. Dist. 13)
6, am 141-142, psd 149, H conc 591, enr 623 (Chapter 69)
- SB 274-FN**, relative to the alteration of firearms. (Nelson et al)
6, K 139
- SB 275-A**, relative to Skyhaven airport and making an appropriation therefor. (Dupont)
6, Finance 248, am 307-308, psd 368, H conc 974, enr 1053 (Chapter 152)
- SB 276-FN**, establishing a panel to address the effectiveness of the delivery of services to children and their families. (Podles et al)
New title: relative to the delivery of services to children and their families, the division of children and youth services, and making an appropriation therefor.
6, am 259-260, psd 277, conc H am 744, enr 854 (Chapter 71)
- SB 277**, prohibiting the hunting of mourning doves in New Hampshire. (Bond et al)
6, additional sponsors 82, psd (RC) 122-132, 149, H nonconc 845
- SB 278**, relative to aid to assisted persons. (Nelson et al)
New title: relative to aid to assisted persons, and the legalization of certain town meetings and proceedings.
6, am 250-251, psd 277, conc H am 969, enr 1054 (Chapter 180)
- SB 279**, relative to motor vehicle emissions testing. (Pressly et al)
6, LT 270, am 358-362, psd 369, nonconc H am, conf 745-746, 846, rep adop 1189-1190, 1209, enr 1230 (Chapter 221A)
- SB 280-FN-A**, changing the rate of the real estate transfer tax. (Hounsell and Rep. Granger of Hil. Dist. 13)
7, study 355
- SB 281-FN**, prohibiting surrogate parenting. (Hounsell et al)
7, study (RC) 232-234
- SB 282-FN**, eliminating exemptions from turnpike tolls. (Hounsell and Chandler)
7, K 143-145
- SB 283**, relative to protective services for adults. (Krasker et al)
7, am 354, psd 369, conc H am 651, enr 1052 (Chapter 181)
- SB 284-FN-A**, relative to exemption from tolls on the New Hampshire turnpike system. (Bartlett)
7, am 267-268, psd 277, conc H am 622, enr 700 (Chapter 83)
- SB 285-FN-A**, establishing one-way tolls on the New Hampshire turnpike system and making an appropriation therefor. (Bartlett)
New title: limiting toll increases on the New Hampshire turnpike system.
7, am 270-272, psd 278, H nonconc 626
- SB 286**, relative to exchanging police information, on a reciprocal basis, with other states. (Pressly et al)
7, am 226, psd 249, H conc 591, enr 700 (Chapter 84)
- SB 287**, relative to police assistance from other states. (Pressly et al)
7, psd 226-227, 249, H conc 591, enr 623 (Chapter 70)
- SB 288-FN**, relative to placing articles on the official ballot. (Pressly)
New title: relative to placing articles on the official ballot and to declarations of candidacy in towns which have adopted the non-partisan ballot system.
7, am 136-137, psd 149, conc H am 645, enr 854 (Chapter 126)
- SB 289-FN**, relative to foundation aid levels. (Nelson et al)
First new title: authorizing the hiring of a consultant to study the effectiveness of the foundation aid formula.
Second new title: establishing a committee to study school facilities.
7, Finance 190-195, am 325-326, psd 369, nonconc H am, conf 973, rep adop 1186-1187, 1208, enr 1230 (Chapter 290)
- SB 290**, relative to expenditures of funds from the highway surplus account. (Bartlett)
7, am 84-85, psd 110, H conc 626, enr 700 (Chapter 119)
- SB 291**, relative to refunds of insurance premiums. (Freese and Rep. Fraser of Mer. Dist. 6)
8, am 336-337, psd 369, conc H am 745, enr am 1050, enr 1215 (Chapter 221)
- SB 292-FN**, establishing a study committee to examine the future air travel needs of New Hampshire. (Pressly et al)

New title: establishing a study committee to examine the future air travel needs of New Hampshire and relative to the management of the Nashua Airport Authority.
8, am 268-270, psd 278, H nonconc 845

SB 293-FN, relative to asbestos management. (Nelson et al)
8, psd 354-355, 369, conc H am 645, enr 747 (Chapter 114)

SB 294-FN, relative to the catastrophic aid formula. (Disnard et al)
First new title: relative to the catastrophic aid formula, and making a supplemental appropriation therefor.
Second new title: relative to the catastrophic aid formula.
8, am & Finance 195-198, am 326, psd 369, conc H am 970, enr am 1213-1214, enr 1233 (Chapter 222)

SB 295, relative to a guardian's authority to remove life support of his ward. (Nelson and Rep. Price of Hil. Dist. 28)
8, study 344

SB 296-A, relative to the construction of regional vocational education centers and making an appropriation therefor. (Dupont et al)
8, psd 86, 110, conc H am 969, enr 1053 (Chapter 182)

SB 297-FN-A, establishing adult in-home care services for certain persons and making an appropriation therefor. (Blaisdell et al)
8, Finance 97, psd 298-299, 368, conc H am 969, enr 1053 (Chapter 183)

SB 298-A, relative to student housing at the New Hampshire technical institute and making an appropriation therefor. (Freese et al)
8, am 86-88, psd 110, H conc 974, enr 1053 (Chapter 164)

SB 299-FN, relative to deeds. (Freese)
8, psd 142-143, 149, conc H am 645, enr 700 (Chapter 85)

SB 300, relative to local regulation of excavations and certain highway construction vehicles. (Bartlett)
New title: establishing a committee to study all aspects of laws, rules and practices relative to materials used in the construction of highways.
8, am 138-139, psd 149, H conc 845, enr 854 (Chapter 127)

SB 301-FN-A, relative to the deadline for an environmental impact study for a 4-lane east-west highway from Concord to the Spaulding Turnpike. (Torr and Rep. Torr of Str. Dist. 6)
9, am 159-161, psd 249, nonconc H am, conf 972, rep adop 1184-1186, 1208, enr 1230 (Chapter 266)

SB 302-FN, relative to fireworks. (White et al)
9, am 293-297, psd 368, nonconc H am, conf 645, rep adop 1190-1191, 1209, enr 1230, veto overridden (RC) 1241-1247, H overrode veto 1253 (Chapter 292)

SB 303-FN, relative to a judicial service increment. (Torr et al)
New title: relative to a judicial service increment and to the committee on judicial conduct.
9, LT 308-314, am 362-363, psd 369, nonconc H am 969

SB 304-FN, relative to the disposition of fines and forfeitures collected for violations of municipal ordinances, codes, and regulations. (Preston et al)
New title: relative to the disposition of fines and forfeitures collected for violations of municipal ordinances, codes, and regulations, transferring certain appropriations within the judicial branch, and making a supplemental appropriation for new positions in the judicial branch.
9, Finance 216, psd 298, 368, nonconc H am, conf 972, rep adop 1188-1189, 1208, enr 1230, veto sustained (RC) 1248-1249

SB 305-FN, relative to pari-mutuel pools at dog races. (Blaisdell)
First new title: relative to pari-mutuel pools at dog races and authorizing a study of greyhound racing.
Second new title: relative to pari-mutuel pools at dog races and authorizing a study of greyhound and horse racing.
9, am & Finance waived 355-358, psd 369, nonconc H am, conf 973, rules suspended 1155, rep adop 1180-1184, 1208, enr am 1223, enr 1231 (Chapter 291)

SB 306-FN, relative to low-dose mammography screening. (Krasker et al)
New title: relative to low-dose mammography screening and establishing a committee to examine regulating persons operating x-ray equipment.
9, am 257-258, psd 277, nonconc H am, conf 746, 846, rep adop 1179-1208, enr 1230 (Chapter 267)

- SB 307-FN**, relative to retirement pay for judges and to vested rights in judicial retirement compensation. (Bartlett et al)
New title: relative to retirement pay for judges, to vested rights in judicial retirement compensation, and to the committee on judicial conduct.
 9, am 314-318, psd 368, nonconc H am 970
- SB 308-FN**, relative to motor vehicle registration fees to be used for highway and bridge construction in areas identified by the emissions control testing program and requiring inspection decals for motor vehicle registration in such areas. (Pressly et al)
 9, K 88
- SB 309-FN**, enabling cities and towns to transfer revenues from the land use change tax to the local conservation commission. (Pressly et al)
 9-10, am 251-252, psd 277, H conc 591, enr 699 (Chapter 120)
- SB 310-FN-A**, relative to the purchase and distribution of breathalyzer machines by the department of safety and making an appropriation therefor. (Johnson et al)
First new title: relative to the purchase and distribution of breath analyzer machines and making appropriations therefor.
Second new title: relative to the purchase and distribution of breath analyzer machines and making an appropriation therefor.
 10, am 299-301, psd 368, nonconc H am, conf 651, 846, rep adop 1178-1179, 1208 enr am 1224, enr 1233 (Chapter 268)
- SB 311-FN**, relative to licensing oil burner technicians and installers. (Disnard)
 10, K 217
- SB 312-FN**, prohibiting the stocking of bodies of water which are inaccessible to the public. (Disnard and Rep. Boucher of Rock. Dist. 23)
 10, K 133
- SB 313-FN**, providing a cost of living increase for New Hampshire retirement system members. (Blaisdell et al)
First new title: providing a cost of living increase for New Hampshire retirement system group II members
Second new title: providing a cost of living increase for New Hampshire retirement system group II members, relative to death benefits for beneficiaries of group II members, and relative to health care benefits for retired group II members and retired employees of political subdivisions.
 10, Finance 218, am 318-319, psd 368, conc H am 969, enr 1053 (Chapter 191)
- SB 314-FN-A**, relative to pari-mutuel purse funds. (St. Jean and Stephen)
 10, K 358
- SB 315-FN**, relative to appeals from the personnel appeals board. (St. Jean)
First new title: relative to the personnel appeals board.
Second new title: relative to the division of plant and property management, and to the personnel appeals board and making an appropriation therefor.
 10, am 211-215, psd 249, nonconc H am, conf 972, 1041, rep adop 1178, 1208 enr 1230 (Chapter 269)
- SB 316-FN**, allowing certain group II retirement system members to continue to receive group medical insurance coverage for themselves and another designated person upon their retirement. (St. Jean)
 10, K 219
- SB 317-FN**, relative to master plans and their housing sections. (St. Jean)
New title: relative to master plans and their housing sections and relative to the compilations of regional housing needs assessments.
 10, am 253-255, psd 277, nonconc H am, conf 644-645, 846, rep adop 1177-1178, 1208, enr 1230 (Chapter 270)
- SB 318-FN**, establishing a committee to study the feasibility of establishing a New Hampshire zoological park. (Charbonneau et al)
 10, am 161-162, psd 249, H conc 591, enr 622 (Chapter 58)
- SB 319**, relative to cancellation of insurance policies. (Nelson et al)
New title: relative to cancellation or termination of insurance policies.
 11, am 219, psd 249, conc H am 645-646, enr 854 (Chapter 115)
- SB 320-FN**, relative to health insurance for retired municipal employees. (Nelson et al)
 11, study 219-220
- SB 321-FN**, relative to certificate of taxes and other assessments on real estate. (Freese)
 11, K 217
- SB 322-FN-A**, relative to petroleum pollution cleanup. (Hounsell et al)
 11, am 183-189, psd 249, conc H am 969, enr am 1197-1198, enr 1215 (Chapter 271)

- SB 323-FN**, to extend eligibility for aid to the permanently and totally disabled to children under the age of 18. (Podles et al)
First new title: relative to providing medical assistance to children who are disabled or victims of catastrophic illness.
Second new title: relative to providing medical assistance to children who are severely disabled, establishing an oversight committee, and making an appropriation therefor.
 11, am 258-259, psd 277, nonconc H am, conf 972, rep adop 1176-1177, 1208, enr 1231 (Chapter 272)
- SB 324-FN**, relative to dangerous dogs and amending the penalty provision relating to dogs which are a menace, a nuisance, or vicious. (Podles et al)
 11, LT 243, study 366
- SB 325-FN**, relative to providing support to families coping with a severely disabled child or young adult family member, using funds already appropriated. (Nelson et al)
 11, psd 99, 110, H conc 537, enr 622 (Chapter 59)
- SB 326-FN-A**, establishing a New Hampshire rivers management and protection program and making an appropriation therefor. (Hounsell et al)
 11, am & Finance (RC) 162-183, am (RC) 303-306, psd 368, nonconc H am, conf 973, rep adop 1173-1174, 1208, enr 1231 (Chapter 273)
- SB 327-FN**, eliminating the social security offset provision for group I members of the retirement system. (Blaisdell et al)
New title: eliminating the social security offset provision for group I members of the retirement system and relative to retirement system administration.
 11-12, am & Finance 220-225, am 319-322, psd 369, conc H am 969, enr 1054 (Chapter 193)
- SB 328-FN**,, relative to sexual misconduct by psychotherapists. (Bond)
 12, am & Finance 244-246, psd 298, 368, conc H am 968, enr 1053 (Chapter 165)
- SB 329-FN**, establishing a study committee to study Monte Carlo nights, Las Vegas nights, bingo games and lucky 7. (Podles)
 12, am 147-148, psd 150, H nonconc 396
- SB 330-FN**, providing medical and health insurance coverage for retired non-state group II New Hampshire retirement system members. (St. Jean)
New title: providing medical and health insurance coverage for retired firefighter and police New Hampshire retirement system members.
 12, Finance 225, rcmt 322, am 377-380, psd 387, H nonconc 974
- SB 331-FN**, relative to payment for forensic medical examinations of sexual assault victims. (Krasker et al)
New title: relative to payment for forensic medical examinations of sexual assault victims, a standardized rape protocol, and making a supplemental appropriation for rape victim services.
 12, am & Finance 97-99, am 322-323, psd 369, nonconc H am, conf 972, recon & conc H am 1015, enr 1053 (Chapter 184)
- SB 332**, requiring local approval of applications to the liquor commission by its licensees and permittees to allow certain dancing and entertainment within their establishments. (Preston)
 12, K 358
- SB 333**, relative to justices of the peace. (Hounsell)
New title: relative to notaries public, commissioners of deeds, justices of the peace, the department of state, and emergency interim succession.
 12, am 339-344, psd 369, H conc 591, enr 699 (Chapter 121)
- SB 334-FN-A**, establishing a comprehensive literacy and dropout prevention program and making an appropriation therefor. (Disnard et al)
New title: establishing a comprehensive literacy and dropout prevention program, and making an appropriation therefor, and establishing a study committee to examine the illiteracy and dropout problems.
 12, am & Finance 198-209, am 326-335, psd 369, nonconc H am, conf 973, rep adop 1200-1206, 1207, enr 1231 (Chapter 274)
- SB 335-FN**, relative to central business service districts. (Nelson et al)
 12, K 218
- SB 336-FN**, relative to retirement benefits for full-time legislative employees. (Nelson et al)
 12, K 225
- SB 337-FN**, adopting the uniform federal lien registration act. (Freese)
 12, am 255-256, psd 277, H conc 591, enr 699 (Chapter 116)

- SB 338-FN-A**, relative to a statewide plan for public and private transportation and making an appropriation therefor. (Nelson et al)
New title: relative to a statewide plan for public and private transportation.
 13, am & Finance 145-146, am 323-324, psd 369, H conc 626, enr 700 (Chapter 86)
- SB 339-FN**, establishing a committee to study the network of airports operating in New Hampshire. (Dupont)
New title: relative to purchasing airports, establishing airport districts, and airport property tax base sharing agreements.
 13, am 272-276, psd 278, H study 845
- SB 340**, prohibiting corporal punishment of children in any child caring or child placing agency licensed by the state. (Podles)
 13, IP (RC) 344-351
- SB 341-FN-A**, establishing a position to coordinate child day care services in the office of the commissioner of health and human services and making an appropriation therefor. (Krasker et al)
 13, am & Finance 243-244, psd 297, 368, H conc 974, enr 1053 (Chapter 166)
- SB 342**, amending the certificate of need law. (Bond and White)
 13, am 260-265, psd 277, conc H am 651, enr am 1050, enr 1215 (Chapter 275)
- SB 343-FN**, relative to liability for expenses of children under the supervision of the division for children and youth services. (Bond and Rep. Burns of Coos Dist. 5)
 13, am 210-211, psd 249, conc H am 645, enr 1052 (Chapter 153)
- SB 344-FN**, relative to the consignment of artworks. (Krasker et al)
 13, psd 253, 277, H conc 845, enr 854 (Chapter 117)
- SB 345-FN**, relative to disciplinary proceedings conducted by the committee on judicial conduct. (Bartlett)
 13, am 227-229, psd 249, nonconc H am, conf 756, 1041, rep adop 1206-1207, 1208, enr 1231 (Chapter 276)
- SB 346-FN**, creating a presumption that cardiovascular disease in police officers is occupationally related. (Nelson et al)
 13-14, LT 225-226, K 366-367
- SB 347-FN-A**, increasing rates for shared homes and making an appropriation therefor. (Freese et al)
 14, am & Finance 246, am 301-302, psd 368, nonconc H am, conf 971, rep adop 1173, 1208, enr 1231 (Chapter 289)
- SB 348**, relative to licensing of health care facilities. (McLane)
 14, am 265-266, psd 277, conc H am 745, enr 1036 (Chapter 156)
- SB 349-FN-A**, to provide 2 additional field staff and additional equipment to the division of air resources for statewide air quality monitoring and making an appropriation therefor. (Disnard et al)
 14, Finance 217-218, psd 297, 368, nonconc H am, conf 650, 846, rep adop 1172-1173, 1208, enr 1231 (Chapter 277)
- SB 350-FN**, relative to the election of fish and game commission members. (Heath et al)
 14, study 133-135
- SB 351**, relative to interstate banking and mutual savings banks. (Blaisdell et al)
First new title: relative to regional banking and mutual savings banks.
Second new title: relative to regional banking.
 14, am (RC) 281-293, psd 367, conc H am 744-745, correction 750, enr 1036 (Chapter 128)
- SB 352-FN**, reestablishing the board of chiropractic examiners. (Johnson)
 14, K 218
- SB 353-FN**, relative to motor vehicle plates for organizational vehicles. (Bond et al)
 14, psd 100-101, 110, H nonconc 626
- SB 354-FN**, establishing a Connecticut river bridge commission. (Disnard et al)
New title: establishing a Connecticut River bridge advisory commission.
 82, am 337-339, psd 369, H conc 591, enr 622 (Chapter 60)
- SB 355**, relative to the distribution of sweepstakes revenues. (Hough et al)
New title: appropriating additional sweepstakes revenues for foundation aid.
 148, am (RC) 408-409, psd 435, recon rej 436, nonconc H am, conf 973, recon, nonconc H am, conf 1017-1019, rep adop 1175-1176, 1208, enr 1231 (Chapter 278)
- SB 356-FN**, relative to involuntary admissions under limited circumstances for the developmentally impaired. (Dupont)
 502, rules suspended & psd 740-744, 749, H study 1041

- SB 357**, relative to legalizing the Seabrook town meeting and establishing the Seabrook Scholarship Fund. (Preston et al)
rules suspended, intro & psd 1067-1068, H conc 1210, enr 1231 (Chapter 279)
- SB 358-FN-A**, making an appropriation for the Chief Medical Examiner. (Bartlett et al)
rules suspended, intro & psd 1240-1241, H conc 1250, enr 1253 (Chapter 293)

SENATE RESOLUTIONS

- SR 6**, relative to aid to the Soviet Union and other communist countries. (Chandler et al)
14, adop 88-89
- SR 7**, concerning the budget of the United States.
intro & adop 1019-1021
- SR 8**, relative to extension of mortgage revenue bonds.
intro & adop 1191
- SR 9**, proclaiming world population awareness week 1988.
intro & IP 1191
- SR 10**, relative to the heroic efforts of the captain and crew of the USS Samuel B. Roberts. (Johnson et al)
intro & adop 1249-1250

HOUSE BILLS

1987 BILLS RE-REFERRED TO COMMITTEE

- HB 12**, recodifying the workers' compensation law.
83, am 490-492, psd 501, H nonconc, conf 852, rep adop 1089-1092, 1197, enr 1228 (Chapter 194)
- HB 17**, relative to building codes in municipalities.
64, LT 380-381, IP (RC) 427-429
- HB 41**, providing that the condemnee shall have first option to purchase any property condemned by eminent domain, if said property is abandoned for any reason by condemnor.
New title: providing that the condemnee, his heirs and assigns shall have first option to purchase any property condemned by eminent domain, if said property is abandoned for any reason by condemnor.
64, LT (RC) 388-392, am 433-434, psd 436, H conc 468, enr 533 (Chapter 42)
- HB 58**, relative to the disqualification of local land use board members.
65, LT 381, (RC) 451-453, psd over 480, psd 481, 482, enr 533 (Chapter 26)
- HB 82**, relative to rate increases resulting from construction of large-scale electric generating facilities.
111, K 392
- HB 203-FN**, relative to the premature shutdown and decommissioning costs of any nuclear electric facility in New Hampshire.
437, K 638-640
- HB 207-FN**, relative to the siting and permitting of solid and hazardous waste disposal facilities.
65, passed over 407, rcmt 423-425, K 629
- HB 214-FN**, relative to penalties for violations of motor vehicle laws by minors.
65, rcmt 395, K 476-477
- HB 231-FN**, relative to updating master plans once every 5 years.
LT 80, study 148
- HB 237**, limiting the civil liability of volunteers working on behalf of nonprofit organizations; establishing a special insurance compensation fund and a process to compensate persons with claims against volunteers.
New title: limiting the civil liability of volunteers working on behalf of nonprofit organizations and government entities.
462, am 795-798, recon & am 855-856, psd 858, recon notice 859, recon & am 1008-1009, psd 1039, H nonconc, conf 1054-1055, rep adop 1119-1121, 1209 enr 1228 (Chapter 280)
- HB 240-FN**, relative to septic inspections on waterfront properties and relative to creating 3 new positions within the division of water supply and pollution control and making an appropriation therefor.
New title: relative to sewage disposal system on waterfront properties and expanded use of sewage disposal systems.
am 28-34, psd 63, H conc 112, enr 439 (Chapter 4)

- HB 252-FN-A**, relative to the rate of the business profits tax.
83, Finance 417-418, psd 485-486, 501, enr 622, H sustained veto 1250, remarks 1250-1252
- HB 293-FN-A**, restricting the travel of double trailers in cities and towns.
New title: relative to foster family homes and making an appropriation therefor and establishing a committee on foster families.
study 80
- HB 295-FN**, relative to the board of tax and land appeals.
psd 62, 64, enr 396 (Chapter 1)
- HB 310-A**, relative to a second bridge across the Nashua River in the city of Nashua and making an appropriation therefor.
456, psd 702-703, 748, enr 1035 (Chapter 129)
- HB 313-A**, relative to the widening, realignment, and improvement of the Route 3-A and Pinecrest Road intersection in Litchfield.
462, psd 703, 748, enr 1035 (Chapter 130)
- HB 324-FN-A**, establishing a committee to study development issues and their impact on the state environment and its resources.
83, K 371-372
- HB 330-FN-A**, relative to an exception to the real estate transfer tax.
New title: relative to an exception to the real estate transfer tax and to return of recovered property.
83, psd 381-382, 387, enr 537, recalled from Governor 561, am 696-698, psd 701, H conc 845, enr 853 (Chapter 88)
- HB 331-FN-A**, relative to filing returns under the interest and dividends tax.
83, LT 382, psd 429-430, 435, enr 461 (Chapter 8)
- HB 352-FN-A**, relative to the return of revenue to cities and towns.
463, study 998-1006
- HB 353-FN-A**, relative to condominium conversions.
New title: relative to municipalities acquiring certain housing projects.
112, am 863-866, psd 1037, H conc 1063, enr 1214, H sustained veto 1250
- HB 354-FN-A**, relative to the Franklin-Laconia connector and making an appropriation therefor.
am (RC) & IP (RC) 16-28
- HB 381-FN**, relative to growth limitation.
65, K 494
- HB 395**, requiring the division of safety services, department of safety, to issue a copy of the state's safe boating publication.
456, K 628
- HB 401-FN**, relative to video tape depositions.
83, am 612-614, psd 624, H nonconc, conf 852, rep adop 1092-1093, 1197, enr 1228 (Chapter 195)
- HB 403-FN**, clarifying penalty provisions for violations of local codes and regulations, relative to district court jurisdiction over such penalties, and enabling district court judges to issue temporary orders enjoining violations of local land use regulations.
New title: clarifying penalty provisions for violations of local codes and regulations, and relative to district court jurisdiction over such violations.
am 59-62, psd 63, H conc 112, enr 481 (Chapter 19)
- HB 404-FN**, establishing a road pay-back fee system.
65, K 392-395
- HB 418**, relative to mutual holding companies.
psd 66, 81, enr 396 (Chapter 2)
- HB 436**, relative to insurance coverage for home health care.
K 77-78
- HB 447**, relative to the right to know law.
65, study 610-611
- HB 452**, relative to demerit points for younger drivers.
65, psd 381, 387, enr 461 (Chapter 20)
- HB 461**, establishing a committee to study the potential deregulation and vertical disintegration of the electric utility industry.
83, K 643

- HB 467-FN**, establishing a committee to study the allocation of funds and costs in the Tilton and Northfield union school district.
83, psd 630, 649, enr 699 (Chapter 72)
- HB 480**, recodifying the county corrections laws.
am 54-56, psd 63, H nonconc, conf 112, rep adop 557-561, 626, enr 853 (Chapter 89)
- HB 496**, relative to the regulation and restoration of excavations which existed on or before August 24, 1979.
65, K 372
- HB 499**, relative to return of recovered property.
65, am 414-415, psd 435, H conc 468, enr 537 (Chapter 43. Nullified by Chapter 88)
- HB 502**, delegating site plan review powers to special site review committees.
65, am 373-374, psd 375, recon notice 375, recon & am 425-427, psd 435, H conc 468, enr 481 (Chapter 9)
- HB 504**, relative to the placement of candidates' names on ballots.
65, K 375-376
- HB 532**, allowing real estate brokers to establish interest-bearing trust accounts.
New title: allowing real estate firms or brokers to establish interest-bearing trust accounts.
LT 16, am 101-110, psd 110, H nonconc, conf 367, K 1227
- HB 537-FN**, relative to regulation of the practice of nursing.
83, am 568-569, psd 592, H conc 845, enr 1050, legislative intent 1252 (Chapter 136)
- HB 546-FN**, relative to the times for opening and closing the polls in statewide elections.
83, psd 376-377, 387, enr 461 (Chapter 10)
- HB 551-FN**, establishing a study committee relative to computer-based public records.
83, am & LT 416-417, am 691-696, psd 701, H nonconc, conf 850, rules suspended & rep adop 1155-1160 (H IP)
- HB 561-FN**, relative to provision of water supplies to victims of water supply contamination, reimbursement of the oil pollution control fund, and licensing of oil transporters.
K 76-77
- HB 564-FN**, authorizing any city or town to issue revenue bonds.
65, am 512-513, psd 535, H conc 625, enr 699 (Chapter 90)
- HB 571-FN**, relative to the certification and financial management of life care facilities.
New title: relative to the certification and financial management of life care facilities and making an appropriation therefor.
am 34-54, psd 63, H nonconc, conf 112, rep adop 430-433, 467, enr 561 (Chapter 44)
- HB 574-FN**, relative to registering and the numbering of boats operating on state waters.
370, psd 402-403, 435, enr 462 (Chapter 11)
- HB 585-FN**, establishing a committee to study motor vehicle emissions controls.
65, LT 476, K 1227
- HB 594-FN**, relative to county victim assistance programs and making an appropriation therefor.
New title: relative to victims' assistance and establishing a victims' assistance fund.
463, am & Finance 668-671, am 897-898, psd 1037, H nonconc, conf 1042, rep adop 1072-1073, H rej rep, new conf 1154, rep adop 1194-1196, 1209, enr am 1217-1218, enr 1231 (Chapter 196)
- HB 606-FN**, relative to lock-up of children.
New title: relative to the lock up of children and the Anna Philbrook Center.
65, am & Finance 671-676, am 900-902, psd 1037, H nonconc conf 1042, rep adop 1108-1109, 1196, enr am 1224-1225, enr 1231 (Chapter 197)
- HB 611-FN**, relative to administrative forfeiture of certain items used in connection with drug offenses.
437, psd over 611-612, psd 617-620, 624, enr 853 (Chapter 94)
- HB 615-FN**, relative to complaints of insurance unfair trade practices.
65, K 439-440
- HB 625-FN**, relative to fees for boats and boat registration, and making certain appropriations.
463, am 651-652, psd 700, H nonconc, conf 971, rep adop 1160-1161, 1209, enr 1230 (Chapter 198)
- HB 627-FN**, to provide a loss carry forward under the business profits tax and relative to partnership and proprietorship deductions for compensation.
83, Finance 382-384, psd 486, 501, enr 747, recalled from Governor & am 1030-1032, psd 1040, H conc 1063, enr 1214 (Chapter 199)
- HB 639-FN**, relative to certification of soil scientists.

New title: relative to certification of soil scientists and establishing a board of natural scientists.

65, am 876-886, psd 1037, H conc 1063, enr am 1216-1217, enr 1232 (Chapter 281)

HB 645-FN, relative to school building aid.
suspension of rules to allow intro rej 563-564

HB 648-FN, creating a political subdivision waste disposal financial relief study committee and changing a statutory reference in the hazardous waste laws.

New title: relative to changing a statutory reference in the hazardous waste laws.

66, am 372-373, psd 374, H conc 467, enr 481 (Chapter 12)

HB 652-FN, relative to wine importers, the delivery of wine, and a definition of "warehouse".

K 62

HB 674-FN, relative to accidental disability benefits for New Hampshire retirement system members.

New title: relative to accidental disability benefits for New Hampshire retirement system members and to retirement benefits for certain legislative and constitutional officers.

463, am 764-766, psd 857, H conc 1063, enr 1214 (Chapter 282)

HB 687-FN, relative to eligibility for disability payments to injured workers.

K 78-80

HB 697-FN, relative to the definition of "wages" for workers' compensation purposes.

K 80

HB 705-FN, relative to itinerant vendors.

66, am 409-414, psd 435, H conc 468, enr 534 (Chapter 27)

HB 708, relative to excess electric generating capacity.

K (RC) 66-76

HB 714-FN, relative to assessment of open space land.

New title: relative to assessment of open space land and the adoption of rules by the commissioner of revenue administration for the purposes of RSA 79-A.

am 56-59, psd 63, H conc 280, enr 439 (Chapter 5)

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HB 731, relative to applications to vote for overseas voters.

397, psd 572-573, 593, enr 699 (Chapter 73)

HB 732-FN, relative to the workers' compensation special fund.

279, psd 492, 501, enr 561 (Chapter 34)

HB 734, relative to posting of bond by administrators of estates.

459, psd over 543, am 620-621, psd 624, H nonconc, conf 852, rep adop 1068, 1197, enr 1228 (Chapter 200)

HB 737, relative to appointing alternates for school board members on municipal budget committees.

New title: relative to appointing alternates for certain members on municipal budget committees.

397, am 601-602, psd 623, H conc 974, enr 1050 (Chapter 188)

HB 739, relative to appeals from the denial of building permits in municipalities without zoning ordinances.

397, psd 722, 748, enr 1036 (Chapter 131)

HB 740, establishing standards for marital mediators and relative to voluntary marital mediation in divorce proceedings.

459, am 791-795, psd 857, recon notice 859, H conc 1063, enr 1214, H sustained veto 1250

HB 741, relative to horsepower of motors on Spectacle Pond in the towns of Enfield and Grafton.

279, psd 402, 435, enr 462 (Chapter 21)

HB 743, relative to security deposits on rental property.

459, am 750, psd 856, H conc 1040, enr 1052 (Chapter 167)

HB 744, relative to contracts for the retail installment sales of motor vehicles.

437, K 685

HB 746, relative to legalizing the Winchester town meeting.

456, am 728-729, psd 748, H conc 974, enr 1051 (Chapter 137)

- HB 747**, relative to the operation of bingo games at agricultural fairs.
370, psd 418-421, 435, recon & K 436
- HB 748-FN-A**, relative to the division of historical resources, creating the position of state curator, and making an appropriation therefor.
437, am & Finance 607-609, psd over 915, am 935-936, psd 1038, H conc 1064, enr 1215 (Chapter 201)
- HB 749**, permitting persons qualified to hunt from motor vehicles to hunt from OHRV's and ATV's.
384, psd 628, 649, enr 747 (Chapter 95)
- HB 753**, reinstating the charter of Bethlehem Mink Farm, Inc.
First new title: reinstating the charter of Bethlehem Mink Farm, Inc. and the charter of James A. Smith Contracting, Inc.; and relative to revival of charters of dissolved nonprofit organizations.
Second new title: reinstating the charter of Bethlehem Mink Farm, Inc. and the charter of James A. Smith Contracting, Inc.
397, am 524-526, psd 536, H conc 625, enr am 1211-1212, enr 1228 (Chapter 202)
- HB 754-A**, making an appropriation to acquire abandoned railroad rights-of-way.
New title: making an appropriation to acquire abandoned railroad rights-of-way and to rebuild, modernize and maintain the Rochester-Ossipee branch line, and relative to transfer of state railroad property interests to the city of Keene.
456, am 486-490, psd 501, H conc 845, enr 1036 (Chapter 154)
- HB 755**, relative to the Goffstown police department.
384, psd 571-572, 593, enr 699 (Chapter 74)
- HB 756**, prohibiting harassment of police dogs or horses.
New title: prohibiting interference with police dogs or horses.
279, am 447-448, psd 454, H nonconc, conf 594, rep adop 1055, 1066, enr 1214 (Chapter 203)
- HB 758-FN**, establishing a committee to study the juvenile justice system and juvenile delinquency, and relative to the age of criminal responsibility.
463, am 783-787, psd 857, H nonconc, conf 1042-1043, rep adop 1068-1069, 1197, enr 1228 (Chapter 204)
- HB 759-FN-A**, relative to constructing facilities for the office of the chief medical examiner and making an appropriation therefor.
437, K 638
- HB 762-FN-A**, making supplemental appropriations to the fish and game department.
386, Finance 507, psd 630, 649, enr am 787, enr 1052 (Chapter 138)
- HB 763**, prohibiting the operation of wet bikes on Arlington Mill Reservoir in the town of Salem.
New title: relative to the operation of ski craft on the lakes, ponds, and rivers of the state.
397, am 825-832, psd 858, H nonconc, conf 1043, rep adop (RC) 1076-1089, 1197, enr am 1219-1220, enr 1232 (Chapter 283)
- HB 765-FN-A**, relative to the printing of "New Hampshire Historical Markers", and making an appropriation therefor.
New title: relative to the printing of "New Hampshire Historical Markers", and making an appropriation therefor, and relative to a memorial for Governor Sherman Adams.
437, am & Finance 713-714, am 902-903, psd 1037, H conc 1064, enr 1215 (Chapter 205)
- HB 766**, relative to utility easements.
384, psd 572, 593, enr 699 (Chapter 75)
- HB 767**, relative to the contracts made by nonprofit corporations.
279, psd 448, 454, enr 481 (Chapter 13)
- HB 768-FN**, relative to the frequency of regional highway conferences.
384, psd 476, 482, enr 534 (Chapter 28)
- HB 769-FN**, relative to rulemaking authority for the division of elderly and adult services.
370, psd 417, 435, enr 481 (Chapter 14)
- HB 770-FN**, relative to loan scam operators.
386, psd 503, 535, enr 591 (Chapter 46)
- HB 771**, relative to the election of Hillsborough county commissioners.
397, K 548-550
- HB 772**, providing for the classification of Lake Wentworth.
384, psd 834, 858, enr 1051 (Chapter 189)

- HB 773-FN-A**, relative to a legal holiday on June 21, 1988 celebrating New Hampshire's role in ratifying the United States Constitution and suspending the celebration of Fast Day for 1988.
463, Finance 729-730, LT 903, K 1227
- HB 774-FN**, relative to the New Hampshire municipal bond bank.
386, psd 503, 535, enr 591 (Chapter 52)
- HB 775**, to revive the charter of the Fuller Foundation of New Hampshire, Inc., a nonprofit organization.
First new title: to revive the charter of the Fuller Foundation of New Hampshire, Inc., a nonprofit organization; and relative to revival of charters of dissolved nonprofit organizations.
Second new title: to revive the charter of the Fuller Foundation of New Hampshire, Inc., a nonprofit organization.
397, am 523-524, psd 536, H conc 625, enr am 1212, enr 1230 (Chapter 206)
- HB 776**, relative to the examination of jurors.
370, am 472-473, psd 482, H conc 625, enr 699 (Chapter 76)
- HB 777-FN**, relative to real estate appraisals conducted by banks and other lending institutions for loan applicants.
370, am 538-539, psd 562, H conc 845, enr 853 (Chapter 96)
- HB 781**, amending the uniform limited partnership act and making reference changes in the disclosure of security takeovers act.
384, psd 526, 536, enr 622 (Chapter 62)
- HB 783**, relative to grandparents' visitation rights.
459, study 806-807
- HB 784**, relative to disclosure of securities takeovers.
459, am 637, psd 649, H conc 974, enr am 1213, enr 1228 (Chapter 207)
- HB 789-FN**, relative to assessment of civil penalties under the workers' compensation law.
279, psd 492-493, 501, enr 561 (Chapter 35)
- HB 790-FN**, relative to the public investments study committee.
459, am 565-566, psd 592, H conc 845, enr 747 (Chapter 97)
- HB 794-A**, making capital appropriations and supplemental capital appropriations.
463, psd over 859, am 904-913, recon & am 1013-1015, psd 1040, H nonconc, conf 1048, rep adop 1164-1172, 1209, enr 1231 (Chapter 224)
- HB 795**, relative to motor vehicle liability policies.
460, psd 638, 649, enr 699 (Chapter 77)
- HB 797**, relative to regulating the sanitary conditions of restaurants.
397, K 676
- HB 798-FN**, relative to special function liquor licenses for clubs and special liquor licenses and permits for nonprofit organizations.
New title: relative to special function liquor licenses for clubs, certain liquor licenses and permits for nonprofit organizations and hotels, extension of certain liquor licenses to outside areas, and establishing a committee to study state liquor laws.
371, rcmt 477-478, am 588-590, psd 593, H conc 845, enr 1036 (Chapter 132)
- HB 799-FN-A**, relative to certain state publications and making appropriations for their more efficient production.
463, Finance 484, psd 540, 562, enr 591 (Chapter 47)
- HB 801-FN**, relative to composition of the dental board.
463, study 571
- HB 803**, relative to snowmobile operation and changing compliance dates for ATV manufacturers.
New title: relative to OHRV operation and changing compliance dates for ATV manufacturers.
384, am 477, psd 482, H nonconc, conf 594, rep adop 1056-1058, 1066, enr am 1216, enr 1232 (Chapter 208)
- HB 806**, relative to the price of wine.
280, psd 422-423, 435, enr 462 (Chapter 15)
- HB 810-FN**, relative to overseas voters.
397, psd 573, 593, enr am 1210-1211, enr 1230 (Chapter 209)
- HB 811-FN-A**, establishing a task force to study the issue of spousal impoverishment of victims of Alzheimer's disease and related disorders and making an appropriation therefor.

New title: establishing a task force to study the issue of spousal impoverishment of victims of Alzheimer's disease and related disorders.

456, am & Finance 615-616, am 898-899, psd 1037, H conc 1040 enr 1053 (Chapter 157)

HB 812, relative to mutual savings banks.

New title: relative to mutual savings banks and mutual holding companies.

455, am 750-752, psd 856, H conc 1040, enr 1052 (Chapter 168)

HB 814-FN, relative to fines imposed by and the staff of the pharmacy board.

New title: relative to fines imposed by and the staff of the pharmacy board, and relative to making an appropriation to the pharmacy board.

460, am & Finance 605-606, psd over 904, am 936-938, psd 1039, H conc 1064, enr 1215 (Chapter 210)

HB 815-FN, relative to the joint committee on elderly affairs.

371, am 417, psd 435, H conc 468, enr 481 (Chapter 16)

HB 816, prohibiting the hunting of mourning doves in New Hampshire.

384, SO 512, rcmt 555-557, psd (RC) 714-722, 748, recon rej 749, enr 1036 (Chapter 155)

HB 817-FN, relative to coordinating programs for the elderly.

371, psd 449-450, 454, enr 481 (Chapter 22)

HB 818, relative to the taking of trout.

397, am 654-655, psd 701, H nonconc, conf 850, rep adop 1058, 1066, enr 1214 (Chapter 211)

HB 819, relative to the setting of black bear seasons.

New title: relative to the setting of black bear seasons and emergency closing of seasons.

384, am 507-510, psd 535, H nonconc, conf 594-595, rep adop 1058-1059, 1066, enr 1214 (Chapter 212)

HB 820, relative to the hunter education program and bow and arrow licenses.

384, am 653-654, psd 701, H nonconc, conf 850, rep adop 1059-1060, 1066, enr 1214 (Chapter 213)

HB 821, legalizing certain town meetings and hearings.

New title: legalizing certain town meetings and hearings and relative to a statutory procedure for curing legal defects in town meetings.

463, am 800-806, psd 857, H nonconc, conf 1043, rep adop 1069-1071, 1197 enr 1228 (Chapter 284)

HB 822, relative to prescription refills.

397, K 676

HB 824, relative to area school district agreements.

First new title: relative to AREA school district agreements and relative to staff services to school administrative units, and making an appropriation therefor.

Second new title relative to area school district agreements, staff services to school administrative units, and the Tilton/Northfield formula.

463, am 598-599, recon & Finance 619, am 915, psd 1038, H nonconc, conf 1043, rep adop 1071-1072, 1197, enr am 1221, enr 1232 (Chapter 214)

HB 826-FN-A, authorizing the hiring of a consultant to review the effectiveness of foundation aid, and making an appropriation therefor, and relative to the teacher shortage study committee.

457, Finance 597-598, K 914-915

HB 827-FN, relative to health screening for members of the general court.

397, psd 807, 857, enr 1051 (Chapter 139)

HB 831-FN-A, relative to a one-time reimbursement for oil spill damage and making an appropriation therefor, and relative to the administration of the oil pollution control fund.

457, Finance waived & psd 626-627, 649, enr 699 (Chapter 78)

HB 832, establishing a 10-year bridge construction and reconstruction plan.

455, am 703-706, psd 748, H nonconc, conf 849-850, rep adop 1117-1118, 1196, enr 1228 (Chapter 215)

HB 833, relative to the defense and indemnification of housing finance board officials and employees.

New title: relative to the defense and indemnification of housing finance authority officials and employees.

463, am 658-660, psd 701, H conc 974, enr 1051 (Chapter 169)

HB 834, relative to prima facie evidence.
460, K 666

HB 842, establishing a committee to study regulating development in unincorporated places and unorganized places and placing a moratorium on sewage or waste disposal system construction in unincorporated and unorganized places.

First new title: granting county commissioners planning and zoning authority in unincorporated and unorganized places.

Second new title: granting county commissioners planning and zoning authority in unincorporated and unorganized places and establishing a legislative study committee relative to these places.

463, am 609-610, psd 623, H nonconc, conf 852, rep adop 1062-1063, 1066, enr am 1216, enr 1232 (Chapter 216)

HB 843-FN-A, appropriating funds for the Northeast Rural Water Association for equipment, technical assistance and training to rural water systems.
457, Finance 570, psd 631, 649, enr 747 (Chapter 98)

HB 845-FN, relative to the department of corrections, allowing psychologists to conduct examinations for purposes of nonemergency involuntary admissions and making an appropriation to the department of corrections.

New title: relative to the department of corrections, and making an appropriation to the department of corrections.

438, am & Finance 782-783, psd 916, 1038, H conc 1040, enr 1053 (Chapter 170)

HB 846, relative to the possession and dispensing of prescription drugs by non-pharmacists.

397, psd 992, 1039, enr 1053 (Chapter 158)

HB 847-FN-A, relative to indigent defense and making an appropriation therefor.

New title: relative to indigent defense.

386, Finance 494, am 928-932, psd 1038, H nonconc, conf 1043, rep adop 1073-1076, 1197, enr am 1219, enr 1232 (Chapter 225)

HB 848, relative to burials on private property.

279, am 449, psd 454, H nonconc, conf 594, rep adop 746, 974, enr 1051 (Chapter 140)

HB 849-FN, relative to claims against the state.

397, psd 497, 502, enr 561 (Chapter 36)

HB 850, exempting motor vehicles carrying washed sand, screened loam, and crushed stone from obtaining a cargo insurance policy or indemnity bond.

New title: exempting motor vehicles carrying washed sand, screened loam and crushed stone from obtaining a cargo insurance policy or indemnity bond and relative to mineral extraction.

438, am 757-760, psd 857, H conc 1041, enr am 1050, enr 1214 (Chapter 285)

HB 852-FN, relative to New Hampshire hospital personnel.

New title: relative to New Hampshire Hospital personnel and relative to claims arising from the clinical operation and administration of New Hampshire Hospital.

460, am 656-658, psd 701, H nonconc, conf 970, rep adop 1094-1096, 1196, enr 1228 (Chapter 217)

HB 853-FN, exempting the WIC program from state indirect cost rate requirements.

New title: relative to the WIC program, and making an appropriation therefor.

455, am & Finance 676-680, am 916-917, psd 1038, H conc 1041, enr 1054 (Chapter 159)

HB 855-FN, relative to timber sales on fish and game department land.

438, K 570

HB 858-FN, relative to fetal alcohol syndrome.

371, am & Finance 450-451, psd 486, 501, H nonconc, conf 851, rep adop 1096, 1196, enr 1229 (Chapter 226)

HB 859-A, making an appropriation for the purchase of a building for the division for children and youth services.

438, Finance 539-540, Finance waived & psd 557, 562, enr 622 (Chapter 61)

HB 862-FN, relative to solid waste disposal and source reduction.

New title: relative to solid waste disposal and source reduction and making an appropriation therefor.

464, am & Finance 816-825, am 917-918, psd 1038, H nonconc, conf 1044, rep adop 1096-1097, 1196, enr 1232 (Chapter 227)

- HB 863-FN-A**, relative to an intrastate computer system within the division of state police to record outstanding arrest warrants for misdemeanors, establishing a police communications specialist position within the division of state police, and making an appropriation therefor.
438, rcmt 484, am & Finance 602-603, psd 913, 1037-1038, H conc 1064, enr 1216 (Chapter 228)
- HB 865-FN**, enabling towns and village districts to hold special meetings for zoning ordinance amendments.
460, K 543-545
- HB 867-FN**, relative to bonding authority for the Conway Village fire district.
384, psd 490, 501, enr 561 (Chapter 37)
- HB 870-FN**, relative to surety bonds for county treasurers and other county officers, and relative to the administration of RSA 78-B by the commissioner of revenue administration.
460, psd 483-484, 501, enr 561 (Chapter 38)
- HB 871**, relative to damages for wrongful death.
464, K 725-726
- HB 872-FN**, regulating risk retention groups and purchasing groups.
280, am 440-447, psd 454, H conc 845, enr 1036 (Chapter 133)
- HB 873**, changing the title of "safety inspectors" to "highway enforcement officers" in the department of safety and providing for independent inspectors for carnival and amusement rides.
New title: changing the title of "safety inspectors" to "highway enforcement officers" in the department of safety, providing for independent inspectors for carnival and amusement rides, and relative to the bureau of common carriers.
457, rcmt 655-656, am 870-875, psd 1037, H nonconc, conf 1044, rep adop 1097-1099, 1197, enr am 1221-1222, enr 1232 (Chapter 288)
- HB 874**, permitting every county attorney to appoint an assistant county attorney.
385, psd over 475, LT 478-479, psd 534-535, 536, enr 622 (Chapter 63)
- HB 875-FN**, establishing a committee to study employment conditions at human services care providers contracting with the state.
397, K 807-808
- HB 876**, relative to restricting water-skiing in certain coves on Squam Lake.
New title: relative to restricting waterskiing in certain coves on Squam Lake and making a supplemental appropriation to the University of New Hampshire.
464, am & Finance waived 834-835, psd 858, H conc 1041, enr am 1217, enr 1232 (Chapter 229)
- HB 878-FN**, establishing a committee to study the benefits of policemen and firemen.
464, K 723
- HB 879-FN**, establishing a study committee relative to the promotion of electric vehicles in the state.
438, K 497
- HB 880**, relative to certification of water quality laboratories.
464, am 808-809, psd 857, H conc 1041, enr 1052 (Chapter 171)
- HB 881-FN**, relative to weights and measures.
385, am 471-472, psd 482, H nonconc, conf 595, rep adop 1099-1100, 1197 (H IP)
- HB 883-FN**, relative to resident and nonresident wholesale marine species licenses.
385, psd 628-629, 649, enr 747 (Chapter 99)
- HB 884**, relative to payment of rent by tenants.
280, psd 614-615, 624, enr 853 (Chapter 100)
- HB 885**, relative to establishing a boat safety fund; and requiring a boat safety course or administrative fine for offenses while boating.
464, am 595-596, psd 623, H nonconc, conf 851, rep adop 1060-1061, 1066, enr am 1211, enr 1229 (Chapter 286)
- HB 886**, relative to the board of trustees of the university system of New Hampshire.
457, study 629-630
- HB 887**, relative to the jurisdiction of marine patrol officers.
438, LT 512, am 841-843, psd 858, H conc 1041, enr 1052 (Chapter 141)
- HB 888**, relative to the qualifications of the director of water supply and pollution control.
460, K 542

- HB 889-FN**, requiring all new statutes to be written in gender-neutral form.
460, K 756-757
- HB 890-FN**, relative to permits and responsibility for dams.
371, LT & rcmt 399-402, K 834
- HB 893-FN-A**, making a supplemental appropriation to the fish and game department.
386, Finance 507, psd 631, 649, enr 747 (Chapter 101)
- HB 894**, relative to consideration of water companies as public utilities.
460, psd 714, 748, enr 1036 (Chapter 134)
- HB 896**, permitting a corporation to limit the liability of its directors in its articles of incorporation.
438, rcmt 643, am 780-782, psd 857, H nonconc, conf 1054, K 1227
- HB 897**, relative to annual reports of county officers.
385, am 475-476, psd 482, H nonconc, conf 595, rep adop 1100, 1197, enr am 1220-1221, enr 1232 (Chapter 230)
- HB 899-FN-A**, allocating funds to the office of state planning to purchase computer equipment and making an appropriation therefor.
464, am & Finance 484-485, psd 540-541, 562, H conc 845, enr 853 (Chapter 102)
- HB 900**, extending the reporting dates for the study committee to examine the cooperative extension service and the fire law study committee.
New title: extending the reporting dates for the cooperative extension service and fire law study committees and extending the report date and appropriation of the environmental risk insurance fund study commission.
398, am 660-661, psd 701, H conc 974, enr 1051 (Chapter 142)
- HB 902**, relative to county foresters.
385, am 597, psd 623, H conc 974, enr 1051 (Chapter 143)
- HB 904-FN**, relative to the Vermont state income tax.
280, passed over 448-449, LT 453, psd 480, 482, enr 534 (Chapter 29)
- HB 905**, relative to surrogate parents appointed for educationally handicapped children.
457, am 616, psd 624, H conc 974, enr 1051 (Chapter 172)
- HB 907-FN**, relative to district court jurisdiction in planning and zoning matters.
398, K 494-495
- HB 911**, relative to service of termination notice on a manufactured housing park tenant.
464, psd 542, 562, enr 591 (Chapter 48)
- HB 912**, relative to rules in manufactured housing parks and warranties for presite built and prefabricated housing.
460, am 573-574, remarks 590-591, psd 593, H nonconc, conf 851, rep adop 1100-1101, 1197, enr 1229 (Chapter 231)
- HB 914**, relative to interest due with a return or estimated taxes in the business profits tax and the interest and dividends tax.
New title: relative to interest due with a return or estimated taxes in the business profits tax and the interest and dividends tax, and relative to a definition of the United States Internal Revenue Code for business profits tax purposes.
280, am 421-422, psd 435, H conc 468, enr 481 (Chapter 23)
- HB 917**, making technical changes for the department of revenue administration.
New title: making technical changes for the department of revenue administration and relative to the taxation of transferable shares under the interest and dividends tax.
464, am 646-648, psd 650, H nonconc, conf 970, rep rej, new conf 1102, H rej rep, new conf 1154, rules suspended 1155, rep adop 1184, 1209, enr 1229 (Chapter 232)
- HB 919-FN**, relative to the matching requirements for vocational rehabilitation programs.
457, Finance 616, psd 914, 1038, enr 1053 (Chapter 192)
- HB 921-FN**, establishing a joint legislative oversight committee on highway and bridge construction and reconstruction plans.
385, am 811-813, psd 858, H nonconc, conf 1044, K 1227
- HB 922-FN**, relative to providing flags for use in school classrooms.
280, psd 469, 482, enr 534 (Chapter 30)
- HB 923**, relative to dredging on great ponds.
398, psd 570-571, 592, enr 699 (Chapter 91)
- HB 924**, to increase the age limit relative to the motor vehicle child restraint requirement.
398, LT 686, K 1227
- HB 929**, to require health clubs to have one staff member trained in cardiopulmonary resuscitation techniques on duty during all operating hours.
398, K, recon, & rcmt 545-548, K 730

- HB 931**, prohibiting consumption of alcoholic beverages on ski slopes and ski lifts.
280, K 403-407
- HB 932-FN-A**, establishing a New Hampshire film and television bureau and making an appropriation therefor.
457, am 978-979, psd 1039, H nonconc, conf 1044, rep adop 1101-1102, 1197, enr 1229, H sustained veto 1250
- HB 935**, relative to recording plats.
460, am 798-800, psd 857, H nonconc, conf 1045, rep adop 1103, 1197, enr 1229 (Chapter 233)
- HB 936**, relative to discoverability of risk in product liability actions.
398, psd 495-496, 501, enr 561 (Chapter 39)
- HB 940**, relative to child support enforcement and paternity.
464, am 985-987, psd 1039, H conc 1064, enr am 1213, enr 1230 (Chapter 234)
- HB 942**, relative to treatment by physical therapy.
460, am 992-998, psd 1039, H conc 1064, enr 1216 (Chapter 235)
- HB 943-FN**, establishing a temporary program allowing the court to grant drivers' licenses conditional upon the use of ignition interlock devices after certain DWI license revocations and authorizing the House judiciary committee to continue its study of ignition interlock devices.
465, K 643-644
- HB 944**, enabling towns to hold special meetings to appropriate money for the purchase of land for conservation purposes.
398, K 833-834
- HB 945**, relative to the administrative procedure act.
398, am 875-876, psd 1037, H conc 1041, enr 1053 (Chapter 173)
- HB 947-FN**, relative to school system pupil registration information.
279, am 469-470, psd 482, H conc 625, enr 747 (Chapter 103)
- HB 948**, allowing a village district to be established for the purposes of transportation of people in the village district.
280, am 733-734, psd 749, H nonconc, conf 970-971, LT 1103, rep adop 1154-1155, 1197 (H IP)
- HB 952**, establishing a legislative committee to study boating laws and rules relative to boating.
465, K 504
- HB 953-FN-A**, relative to a fire protection system for the vault in the state archives and making an appropriation therefor.
457, am & Finance 540, Finance waived & psd 557, 562, H conc 846, enr 1036 (Chapter 135)
- HB 954**, relative to the boilers and pressure vessels law.
279, psd 470-471, 482, enr 534 (Chapter 31)
- HB 955-FN**, relative to interstate banking.
371, K 564-565
- HB 959**, relative to the future energy supply needs of New Hampshire.
465, psd 780, 857, enr 1051 (Chapter 187)
- HB 962-FN-A**, relative to the study and design of a ski lodge at Mount Sunapee and making an appropriation therefor.
First new title: relative to the study and design of a ski lodge at Mount Sunapee and making an appropriation therefor, and relative to certain major capital projects and water pollution control revolving loan fund.
Second new title: relative to a ski lodge and improvements at Mount Sunapee and making an appropriation therefor, and relative to certain major capital projects and the water pollution control revolving loan fund.
465, am 859-862, psd 1036, H nonconc, conf 1045, rep adop 1116-1117, 1197, enr am 1219, enr 1232 (Chapter 236)
- HB 963-FN**, relative to certain public utility contracts.
465, am 724-725, psd 748, H conc 974, enr 1051 (Chapter 174)
- HB 964**, granting law enforcement officials and certain employees of the department of health and human services the right to enter, without the consent of parent or guardian, public places to interview children who may be abused or neglected.
465, am 987-990, psd 1039, H conc 1064, enr 1215 (Chapter 237)
- HB 965-FN**, establishing a study committee to examine the issue of parenting skills training.
455, K 655

- HB 966**, relative to cellular radio telecommunications services.
438, psd over 494, rcmt 500, psd (RC) 528-533, 536, enr 592 (Chapter 49)
- HB 968-FN**, authorizing imposition of administrative fines by the water well board.
279, psd 402, 435, enr 462 (Chapter 17)
- HB 970-FN**, establishing a fee for the review of certain project plans by the division of water supply and pollution control.
suspension of rules to allow intro rej 564
- HB 971**, relative to unclassified state employees salaries.
suspension of rules to allow intro rej 563
- HB 972**, relative to annulments of drug convictions and permitting the director of motor vehicles to review revocation of licenses of habitual offenders for possible restoration under certain conditions.
New title: relative to annulments of drug convictions and convictions which may be counted toward habitual offender status, and permitting the director of motor vehicles to review revocation of licenses of habitual offenders for possible restoration under certain conditions.
465, am 979-982, psd 1039, H nonconc, conf 1045, rep adop 1103-1104, 1197, enr am 1218-1219, enr 1232 (Chapter 238)
- HB 978**, legalizing certain town meetings and zoning board of adjustment proceedings.
New title: legalizing certain town meetings.
465, am 730-731, psd 749, H nonconc, conf 849, rep adop 1104-1105, 1209, enr 1229 (Chapter 239)
- HB 980-FN**, relative to penalties for sewage treatment violations.
398, LT 644, am 737-740, psd 749, H nonconc, conf 849, rep adop 1105-1106, 1209, enr 1229 (Chapter 241)
- HB 981-FN**, relative to renting video cassettes to minors and requiring proof of age for admission of minors to movies.
465, study 640-643
- HB 982**, relative to vehicles impeding the flow of traffic.
438, K 550
- HB 983**, relative to early betting on thoroughbred racing.
371, K 478
- HB 985**, relative to the penalty for littering from boats.
457, K 627-628
- HB 989**, relative to towed farm implements.
385, psd 476, 482, enr 534 (Chapter 32)
- HB 990-FN-A**, relative to the planning and design of a new facility for the Concord district court and making an appropriation therefor.
New title: relative to maintenance of court facilities and relative to funding for the planning and design of new district court facilities.
457, am & Finance 661-664, psd 914, 1038, H nonconc, conf 1045, rules suspended 1155, rep adop 1194, 1209, enr 1231, H sustained veto 1250
- HB 991-FN**, relative to dental benefits for persons receiving medical assistance.
455, study 787-791
- HB 993**, relative to the taking of beaver.
385, am 510-511, psd 535, H conc 626, enr 699 (Chapter 79)
- HB 995-FN**, relative to exemption from the gasoline tax and state license plates.
386, am 528, psd 536, H conc 846, enr 1036, H sustained veto 1250
- HB 996-A**, relative to the state's purchase of the Hillsborough county court house and making an appropriation therefor, and relative to asbestos removal in the courthouse.
New title: making an appropriation for the state's purchase of the Hillsborough county courthouse.
458, am 752-753, psd 856, H conc 1041, enr 1052 (Chapter 175)
- HB 998-FN**, relative to liability of manufacturers.
371, am 726-728, psd 748, H conc 974, enr 1051 (Chapter 190)
- HB 999-FN**, granting authority to the commissioner of environmental services to levy administrative fines for certain violations, and authorizing the director, division of water supply and pollution control, to take certain emergency actions.
398, psd 496-497, 501, enr 561 (Chapter 40)
- HB 1000-FN-A**, relative to the Christa McAuliffe memorial and making an appropriation therefor.
465, am 753-756, psd 857, H conc 1041, enr 1052 (Chapter 160)
- HB 1001-FN**, relative to civil suits against municipal officials.
465, K 667

- HB 1007-FN**, relative to the date when municipalities must make tax payments to counties.
398, psd 483, 501, enr 561 (Chapter 41)
- HB 1008-FN**, relative to after market parts.
438, am 686, psd 701, H conc 974, enr 1051 (Chapter 176)
- HB 1009-FN**, relative to managing tax supported state debt.
465, K 899
- HB 1014**, prohibiting ski craft on Nubanusit Lake and Spoonwood Pond in the towns of Nelson and Hancock.
438, K 832
- HB 1016-FN**, relative to municipal borrowing due to certain bankruptcies.
455, am 567, psd 592, H conc 846, enr 747 (Chapter 104)
- HB 1020-FN**, relative to occupational therapists and occupational therapy assistants.
New title: relative to occupational therapists and occupational therapy assistants and making an appropriation therefor.
460, am 606-607, psd 623, H conc 975, enr 1052 (Chapter 144)
- HB 1021-FN**, relative to the treatment and care of alcohol abusers, substance abusers, and alcohol and substance abusers.
371, am 990, psd 1039, H conc 1064, enr 1214 (Chapter 242)
- HB 1022-FN**, relative to investment of public funds.
460, LT 702, IP 736-737
- HB 1023**, prohibiting the use of ski craft on Silver Lake in the town of Harrisville.
438, K 832
- HB 1028-FN**, relative to the water resources statutes.
460, K 836
- HB 1036-FN**, relative to motor vehicle inspections.
466, psd 497-500, 502, enr 561 (Chapter 45)
- HB 1038-FN**, relative to credit services organizations.
280, psd 399, 435, enr 462 (Chapter 24)
- HB 1041-FN-A**, establishing a committee to study and develop a plan for the protection of the Upper Ammonoosuc River watershed.
438, am 836-837, psd 858, H conc 1041, enr 1052 (Chapter 145)
- HB 1042-FN**, relative to road toll laws and the regional fuel tax agreement.
466, Finance 500, psd 541, 562, enr 622 (Chapter 64)
- HB 1044**, relative to the minimum age for operating a power boat in the state.
439, psd 550-551, 562, enr 622 (Chapter 56)
- HB 1046-FN-A**, relative to the distribution of tax on pari-mutuel pools.
386, am 526-528, psd 536, H conc 626, enr 699 (Chapter 92)
- HB 1048-FN**, relative to health care benefits for retired employees of political subdivisions.
458, psd 661, 701, enr 853 (Chapter 123)
- HB 1049-FN**, relative to the travel allowance for members of the general court.
suspension of rules to allow intro rej 564
- HB 1053-FN**, establishing the position of chief boiler inspector.
455, psd 603, 623, enr 747 (Chapter 124)
- HB 1056-FN-A**, authorizing the payment of bond expenses out of bond proceeds and authorizing the appropriation of funds for such expenses if bond proceeds are insufficient.
466, K 899
- HB 1060**, establishing a limitations period for claims of procedural defects in the enactment of municipal legislation.
385, psd 474, 482, enr 534 (Chapter 33)
- HB 1061-FN**, relative to retaining certain state-owned land overlooking Lake Winnisquam.
385, am 886-891, recon & am 1011-1013, psd 1040, H nonconc, conf 1046, rules suspended 1155, rep adop 1192-1193, 1209, enr 1229 (Chapter 243)
- HB 1062-FN**, extending the reporting date for the advisory committee on state economic development and local population growth.
New title: relative to the advisory committee on state economic development and local population growth.
398, am 652-653, psd 701, H conc 975, enr 1051 (Chapter 146)

- HB 1063-FN**, to revive the charter of Kappa Sigma House, Inc. and Jackson Ski Touring Foundation Inc., nonprofit organizations.
New title: reviving the charter of Kappa Sigma House, Inc., Jackson Ski Touring Foundation, Inc., and Granliden Community Association, Inc., nonprofit organizations and making certain changes in the voluntary corporations law.
 280, am 517-523, psd 536, H conc 626, enr 699 (Chapter 93)
- HB 1064-FN**, to include probation and parole officers in group II of the New Hampshire retirement system.
 suspension of rules to allow intro rej 563
- HB 1066-FN-A**, relative to group II of the New Hampshire retirement system and making an appropriation therefor.
 458, psd 760, 857, enr 1051 (Chapter 161)
- HB 1067-FN**, relative to the penalty for an aggravated DWI offense.
 460, am 667-668, psd 701, H nonconc, conf 851, K 1228
- HB 1072-FN-A**, appropriating funds to the department of environmental services for a water supply study.
 458, am & Finance 569, psd 631, 649, H conc 975, enr 1052 (Chapter 147)
- HB 1074-FN**, relative to prior service credit for the retirement system.
 458, psd 517, 536, enr 592 (Chapter 53)
- HB 1075-FN**, relative to the use of ski craft on the lakes and ponds of the state.
 439, K 832-833
- HB 1078-FN**, relative to cosmetologists and pedicurists.
 460, K 757
- HB 1080-FN-A**, relative to nongame species and making a continuing appropriation therefor.
 466, am & Finance 504-507, am 632-636, psd 649, H nonconc, conf 849, rep adop 1061, 1066, enr 1215 (Chapter 244)
- HB 1081-FN**, naming a part of Route 111 in the town of Windham the Waterhouse Memorial Road.
First new title: naming a part of Route 111 in the town of Windham the Waterhouse Memorial Road, requiring year-round maintenance for Base Road in the town of Carroll and amending various highway and motor vehicle laws.
Second new title: naming a part of Route 111 in the town of Windham the Waterhouse Memorial Road and amending various highway and motor vehicle laws.
 385, com changed 480, am 813-816, psd 858, H nonconc, conf 1046, rep adop 1108, 1209, enr am 1220, enr 1232 (Chapter 245)
- HB 1082-FN**, relative to irradiated food.
 455, K 990-992
- HB 1088-FN-A**, establishing pilot child care provider recruitment and training programs, and making an appropriation therefor.
 458, Finance (RC) 577-587, am 918-920, psd 1038, H nonconc, conf 1046, rules suspended 1155, rep adop 1191-1192, 1209, enr 1229 (Chapter 246)
- HB 1089-FN**, relative to clarifying and changing the penalties under certain forestry laws and relative to deceptive forestry business practices.
 461, psd 627, 649, enr am 853, enr 1052 (Chapter 148)
- HB 1090-FN**, relative to drugging animals in livestock events and relative to audits of agricultural fairs.
 385, psd 570, 592, enr 700 (Chapter 80)
- HB 1091-FN**, allowing the insurance commissioner to impose and collect fees for submissions of continuing education courses in the insurance field to reimburse the continuing education advisory council and making an appropriation therefor.
 466, psd 516-517, 536, enr am 698-699, enr 747 (Chapter 105)
- HB 1092-FN**, amending the 10-year highway plan.
 458, am 862-863, psd 1037, H conc 1064, enr 1215 (Chapter 247)
- HB 1093-FN**, relative to reporting requirements of corporations having securities registered in this state.
 455, am 566-567, psd 592, H nonconc, conf 850-851, rep adop 1107, 1209, enr am 1222, enr 1232 (Chapter 248)
- HB 1097-FN**, relative to underground storage tanks.
New title: relative to underground storage tanks and relative to funding a potable water supply for the town of Meredith.
 466, LT 838, am & LT 838-841, am 1015-1017, psd 1040, H conc 1064, (H reconc & nonconc) rules suspended, conf & rep adop 1198-1200, enr 1229 (Chapter 249)

- HB 1098-FN**, establishing a committee to study surrogate motherhood.
461, am 731-732, psd 749, H conc 975, enr 1051 (Chapter 186)
- HB 1099-FN**, making New Hampshire retirement system maximum benefit limitations comply with the Tax Reform Act of 1986.
461, psd 516, 535, enr 592 (Chapter 54)
- HB 1103-FN**, relative to state-owned surplus real estate to be used to establish affordable housing for low and moderate income persons.
466, am 975-978, psd 1039, H conc 1064, enr 1215 (Chapter 250)
- HB 1104-FN-A**, relative to sewage treatment funds and making an appropriation therefor.
466, K 708-712
- HB 1106-FN**, establishing a committee to develop a program to license certain construction in public waters.
466, K 503
- HB 1107-FN-A**, establishing a committee to study legislative employees' and constitutional officers' retirement benefits and making an appropriation therefor.
466, am & Finance 514-516, psd 631-632, 649, H conc 975, enr 1051 (Chapter 185)
- HB 1109-A**, relative to the purchase of the Cheshire bridge in the town of Charlestown and making an appropriation therefor.
458, am 706-708, psd 748, H nonconc, conf 848-849, rep adop 1106-1107, 1209, enr 1229 (Chapter 251)
- HB 1112-FN-A**, relative to the Head Start program and making an appropriation therefor.
458, Finance 575-577, am 920-922, psd 1038, H conc 1064, enr 1215 (Chapter 252)
- HB 1115-FN-A**, relative to emergency management expenditures.
466, am 866-867, psd 1037, H conc 1041, enr 1053 (Chapter 177)
- HB 1119**, relative to restrictions on thrill craft.
466, LT 832, K 1227
- HB 1121-FN-A**, appropriating funds for construction of the North Swanzev sewer interceptor.
466, K 712-713
- HB 1123-FN**, relative to senior justices and to the sentence review division.
385, am 474-475, psd 482, H conc 626, enr 700 (Chapter 81)
- HB 1128**, establishing child support guidelines, and establishing a committee to study child support issues.
466, com changed 535, am 982-985, psd 1039, H conc 1064, enr 1215 (Chapter 253)
- HB 1129**, making supplemental operating budget appropriations, amending the operating budget, and making certain other appropriations.
467, am 938-968, psd 1039, H nonconc, conf 1046-1047, rep adop 1121-1154, 1209, enr am 1225-1227, enr 1231 (Chapter 254)
- HB 1130-FN**, relative to the cost to counties for performing autopsies.
385, study 470
- HB 1133-FN**, relative to home rule and municipal charters.
461, am 891-893, psd 1037, H conc 1041, enr am 1198, enr 1230 (Chapter 223)
- HB 1134-FN**, relative to walking disability motor vehicle plates, cards, and parking privileges.
439, psd 551-555, 562, enr 622 (Chapter 65)
- HB 1137-FN**, relative to the reports required by and the setting of tax rates for municipalities, counties, and school districts.
461, am 868-870, psd 1037, H nonconc, conf 1047, rep adop 1106, 1209 (H IP)
- HB 1142-FN-A**, relative to the construction of certain water treatment projects and making an appropriation therefor.
467, LT 838, K 1227
- HB 1144-FN**, relative to civil penalties for violations by public utilities.
371, am 473-474, psd 482, H nonconc, conf 848, rep adop 1093, 1210, enr 1229 (Chapter 255)
- HB 1146-FN-A**, relative to abandoned property and making an appropriation to the state treasurer for purchase of a computer.
New title: relative to abandoned property.
458, Finance 493-494, am 541-542, psd 562, H nonconc, conf 848, rep adop 1093-1094, 1210, enr 1229 (Chapter 256)
- HB 1147-FN**, prohibiting persons who have been convicted of child pornography, felonious physical assault on a minor, or any sexual assault, from engaging in activities relating to the care of children.
467, am 809-811, psd 857, H conc 1064, enr 1215 (Chapter 257)

- HB 1150-FN**, permitting the attorney general to hire part-time attorneys general.
455, am 665-666, psd 701, H nonconc, conf 848, rep adop 1115-1116, 1210, enr 1229 (Chapter 258)
- HB 1151**, relative to licensing pharmacists.
461, psd 605, 623, enr 853 (Chapter 106)
- HB 1152-FN**, changing the name of the Laconia State School and training center.
385, psd 680, 701, enr 853 (Chapter 107)
- HB 1154**, permitting the Waterville Estates village district to exceed its debt limitation.
455, am 599-601, psd 623, H nonconc, conf 847, rep adop 1061-1062, 1066, enr 1215 (Chapter 259)
- HB 1158-FN**, relative to extension of the authority of the division of water supply and pollution control relative to safe drinking water.
467, am 893-897, psd 1037, H conc 1064, enr 1215 (Chapter 260)
- HB 1159-FN**, relative to the Southeast Regional Refuse Disposal District.
New title: relative to the Southeast Regional Refuse Disposal District and authorizing towns to contract for solid waste disposal services.
467, LT 503, am & LT 843-844, am 1006-1008, psd 1039, H nonconc, conf 1065, rep adop 1118, 1210, enr 1229 (Chapter 261)
- HB 1161**, relative to health insurance for members of the general court.
398, psd 722-723, 748, enr 1052 (Chapter 162)
- HB 1162-FN-A**, relative to AIDS education, prevention and control and making an appropriation therefor, and relative to testing for the AIDS virus for insurance purposes.
458, am & Finance 680-685, psd over 922, am 932-935, recon & am 1010-1011, psd 1039, H nonconc, conf 1054, rep adop 1109-1115, 1210, enr am 1222-1223, enr 1233 (Chapter 262)
- HB 1163-FN-A**, relative to nursing home care costs paid by counties.
458, Finance 574-575, am 923-924, psd 1038, H nonconc, conf 1047, K 1228
- HB 1167-FN**, relative to elderly property tax credits.
385, am 734-736, psd 749, H nonconc, conf 848, K 1228
- HB 1168-FN**, relative to voter registration and the United States Postal Service.
280, K 572
- HB 1171**, relative to boating restrictions on White Pond and Duncan Lake in the town of Ossipee and prohibiting ski craft on Dublin Lake in the town of Dublin.
New title: relative to boating restrictions on White Pond and Duncan Lake in the town of Ossipee.
461, am 837, psd 858, H nonconc, conf 1047, rep adop 1118-1119, 1210, enr am 1220, enr 1233 (Chapter 263)
- HB 1177-FN**, relative to qualifying for the veteran's and elderly property tax exemptions and filing an inventory form, and relative to naming a bridge for Korean and Vietnam era veterans.
461, psd 542-543, 562, enr 622 (Chapter 57)
- HB 1178**, relative to counting absentee ballots before the polls close.
455, psd 636, 649, enr 747 (Chapter 108)
- HB 1180-FN-A**, increasing the rate for residents of enhanced family care facilities and making an appropriation therefor.
458, Finance 587, am 899-900, psd 1037, H nonconc, conf 1047-1048, rules suspended 1155, rep adop 1193, enr 1229 (Chapter 287)
- HB 1182-FN**, relative to rate-setting for children's services, and establishing a committee to study rate-setting for health and human services, children, youth and elderly, and education.
461, am & Finance 732-733, am 900, psd 1037, H conc 1041, enr 1053 (Chapter 178)
- HB 1185-FN-A**, establishing a program of worker safety and health education within the department of labor.
467, K 723
- HB 1186**, relative to the establishment of inclusionary zoning and linkage and accessory dwelling unit standards and development restrictions.
New title: relative to the establishment of inclusionary zoning and accessory dwelling unit standards and development restrictions.
467, am 664-665, psd 701, H conc 975, enr 1051 (Chapter 149)
- HB 1188-FN**, establishing age limits for the operation of OHRV's.
New title: establishing age limits for operators of off highway recreational vehicles and amending compliance dates for manufacturers of all terrain vehicles.
461, am & Finance 687-691, psd 914, 1038, H conc 1065, enr am 1212-1213, enr 1230 (Chapter 264)

- HB 1190**, relative to the Belknap county attorney.
455, am 587-588, psd 593, H conc 846, enr 853 (Chapter 125)
- HB 1192-FN**, establishing a task force to study long term care insurance for the elderly.
371, psd 638, 649, enr 747 (Chapter 109)
- HB 1193-FN**, relative to chiropractic and making an appropriation therefor.
439, Finance waived & psd 603-605, 623, enr 853 (Chapter 87)
- HB 1194**, relative to the emergency treatment of stepchildren.
456, am 616-617, psd 624, H conc 975, enr 1052 (Chapter 150)
- HB 1198**, relative to work programs for individuals in need of municipal assistance.
371, K 756
- HB 1199-FN**, relative to unemployment compensation.
New title: relative to unemployment compensation and relative to the division of standard and certification, department of education.
456, am 723-724, psd 748, H conc 975, enr 1052 (Chapter 179)
- HB 1200**, relative to apportionment of damages.
467, am 761-764, recon & am 855, psd 858, H nonconc, conf 1048, rep adop 1115 (H IP)
- HB 1201**, authorizing school districts to teach New Hampshire's cultural heritage and ethnic history in school.
459, psd 598, 623, enr 700 (Chapter 122)
- HB 1202-FN**, requiring additional reports to be filed with the insurance commissioner.
459, am 766-769, psd 857, recon notice 859 (H IP)
- HB 1203-FN-A**, relative to the payment of a claim against the state and making an appropriation therefor.
439, psd 513-514, 535, enr 592 (Chapter 55)
- HB 1204-FN-A**, establishing a grant-in-aid program to be administered by the division of mental health and developmental services, department of health and human services, to provide temporary emergency shelter for the destitute and making an appropriation therefor, and establishing the affordable housing fund within the New Hampshire Housing Finance Authority and making and appropriation therefor.
New title: establishing a grant-in-aid program to provide temporary emergency shelter for the destitute, establishing the affordable housing fund, and establishing a low and moderate income housing loan program, and making appropriations therefor.
564, am & Finance 769-780, am 924-928, psd 1038, H nonconc, conf 1042, rep adop 1161-1164, 1210, enr 1233 (Chapter 240)
- HB 1205-FN-A**, establishing a low and moderate income housing loan program and making an appropriation therefor.
suspension of rules for intro rej 1035
- HB 1206**, establishing a joint legislative committee to monitor the Public Service Company of New Hampshire reorganization proceedings, authorizing the employment of an attorney to advise and assist the committee and making an appropriation therefor.
rules suspended, intro & psd 1034-1035, 1040, enr 1054 (Chapter 163)
- HB 1208-FN**, relative to capital reserve and estimates of unrestricted revenue.
rules suspended, intro & am 1032-1034, psd 1040, H nonconc, conf 1049, K 1228

HOUSE CONCURRENT RESOLUTIONS

- HCR 11**, concerning the budget of the United States.
456, IP (2 RC's) 1021-1030
- HCR 13**, relative to adjustment of the shelter deduction permitted under the food stamp program.
467, adop 811, 857
- HCR 14**, relative to joint rules (1988 session).
intro & adop 62-63
- HCR 15**, urging Congress to pass legislation requiring federal review and a delay in the imposition or increase of airport fees.
rules suspended, intro & adop 847, 858

CONSTITUTIONAL AMENDMENT CONCURRENT RESOLUTIONS

- CACR 22**, relating to meetings of the general court. Providing that the general court shall meet in triennial sessions and each representative and senator shall be elected to 3-year terms of office. (Chandler)
14-15, K 89

CACR 24, relating to the right to counsel. Providing that the right to counsel shall not attach unless a determination has been made that imposition of a term of incarceration is probable. (White)

New Title: relating to the right to counsel in criminal proceedings. Providing that the right of a defendant in a criminal proceeding to have an attorney appointed at the expense of the state if the defendant cannot afford an attorney be limited to cases where the defendant actually faces incarceration.

15, am (RC) 238-243, adop (RC) 278, H nonconc 845

CACR 29, relating to meetings of the general court. Providing that the general court shall meet biennially. (Preston)

15, additional sponsor 80, adop (RC) 89-97, (RC) 110-111, H nonconc 845

